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ABSTRACT

The U.S. House of Representatives Subcommittee on Education Reform held a hearing on March 13, 2003, to hear testimony on the Individuals with Disabilities Education Act (IDEA). This booklet contains the minutes of the hearing. The hearing focused on how IDEA could be improved and on pre-referral intervention. The booklet is divided into the following sections: Opening Statement of Senator Chairman Michael N. Castle; Opening Statement of Ranking Member Lynn C. Woolsey; Statement of Dianne Talarioc, Superintendent, Canton City School District, Canton Ohio; Statement of Harriet P. Brown, Director, ESE Policy and Procedures, Orlando, Florida; Statement of Douglas Carnine, Director and Professor, National Center to Improve the Tools of Educators, University of Oregon; Statement of Larry Lorton, Superintendent, Caroline County School District, Denton, Maryland; Prepared Opening Statement of Chairman Michael N. Castle; Prepared Opening Statement of Ranking Member Lynn C. Woolsey; Written Statement of Dianne Talarico; Written Statement of Harriet P. Brown; Written Statement of Douglas Carnine; Written Statement of Larry Lorton; Written Set of Proposals and Position Statement produced by the IDEA Funding Coalition; Written Statement by Zero to Three Policy Center; Letters of Correspondence; and Written Statement from Michael Resnick, Associate Executive Director, National School Boards Association. (CR)

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IDEA: FOCUSING ON IMPROVING RESULTS FOR CHILDREN WITH DISABILITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON EDUCATION REFORM

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 13, 2003

Serial No. 108-9

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RESULTS FOR CHILDREN WITH DISABILITIES

THURSDAY, MARCH 13, 2003

U.S. HOUSE OF REPRESENTATIVES,

SUBCOMMITTEE ON EDUCATION REFORM,

COMMITTEE ON EDUCATION AND THE WORKFORCE,

WASHINGTON, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in Room 2175, Rayburn House Office Building, Hon. Michael Castle [chairman of the subcommittee] presiding.

Present: Representatives Castle, Osborne, Biggert, Platts, Keller, Wilson, Musgrave, Woolsey, Davis of California, Davis of Illinois, Case, Grijalva, Kind, Kucinich, Van Hollen, and Majette.

Also present: Representative Regula.

Staff present: Julian Baer, Legislative Assistant; David Cleary, Professional Staff Member; Kevin Frank, Professional Staff Member; Kate Gorton, Professional Staff Member; Melanie Looney, Professional Staff Member; Alexa Marrero, Press Secretary; Krisann Pearce, Deputy Director of Education and Human Resources Policy; Deborah L. Samantar, Committee Clerk/Intern Coordinator; Liz Wheel, Legislative Assistant; Alex Nock, Minority Legislative Associate, Education; Joe Novotny, Minority Clerk/Staff Assistant, Education; and Linda Theil, Minority Legislative Associate, Education.

Chairman Castle. A quorum being present, the Subcommittee on Education Reform of the Committee on Education and the Workforce will come to order.

OPENING STATEMENT OF CHAIRMAN MICHAEL N. CASTLE, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

We are meeting today to hear testimony on IDEA, Focusing on Improving Results for Children with Disabilities. Under committee rule 12(b), opening statements are limited to the chairman and the ranking minority member of the subcommittee. Therefore, if other members have statements, they may be included in the hearing record.

With that, I ask unanimous consent for the hearing record to remain open 14 days to allow members' statements and other extraneous material referenced during the hearing to be submitted in the official hearing record. Without objection, so ordered.

Let me say good morning to everybody who is gathered here today, particularly to our witnesses. We appreciate you being here today. I am pleased to welcome all of you and the members who are here to this morning's Education Reform Subcommittee hearing. We are looking forward to your comments and the recommendations that you will provide on improving the Individuals with Disabilities Education Act, also known interchangeably as IDEA.

This landmark legislation has played a vital role in ensuring that children with special needs receive the high quality education they deserve. For much of our nation's history, children with disabilities were denied access to public education. However, with the passage of the Individuals with Disabilities Education Act in 1975, the doors of educational opportunity were opened. Schools now provide students with disabilities a free and appropriate public education in the least restrictive environment.

According to the Department of Education, about six million students currently participate in these programs across the nation. Today more than ever, students with disabilities have an opportunity to accomplish their goals.

Although IDEA has many success stories, there is still room for improvement in serving children with disabilities. Children with disabilities are still among those at greatest risk of being left behind. No longer is it simply enough to provide our children with disabilities access to public schools. Now more than ever, we must see that children with disabilities are given access to an education that maximizes their unique abilities and provides them with the tools for later success. We must be vigilant in our efforts towards improving their quality of education by focusing on better education results, reducing the paperwork burden for special education teachers, and addressing the problems of over-identification of minority students as disabled.

One of the great benefits of No Child Left Behind is that we have raised expectations, and will hold school districts accountable for the annual progress of all their students, including students with disabilities. Although we have made great progress in including students with disabilities in the regular classroom, we now must make equally great progress in ensuring that they receive a quality education in the regular classroom.

The excessive amount of paperwork currently inherent in special education continues to overwhelm and burden teachers, robbing them of time to educate their students. This must be reduced in order to retain and recruit highly-qualified special education teachers. Teachers must have the ability to spend more time in the classroom rather than spending countless hours filling out forms that do not lead to a better education for students. We remain committed to implementing common sense reforms that would reduce this burden and provide relief to educators.

Minorities are often significantly over-represented in special education programs. African-Americans are nearly three times more likely to be labeled as mentally retarded, and almost twice as likely to be labeled emotionally disturbed.

Current methods of identifying children with disabilities lack validity or reliability. As a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

We remain committed to build upon reforms already implemented, and must keep these challenges in mind as we reauthorize IDEA. Your testimony - the witness's, that is - is vital to that task, and we look forward to hearing from each of you today.

With that, I yield to my colleague from California, Ms. Woolsey, for whatever opening statement she wishes to make.

OPENING STATEMENT OF CHAIRMAN MICHAEL N. CASTLE, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – APPENDIX A

OPENING STATEMENT OF RANKING MEMBER LYNN C. WOOLSEY, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Ms. Woolsey. Thank you Mr. Chairman, and good morning. I am very happy that we're starting with the work of reauthorizing IDEA. Whenever I talk to educators or school administrators in my district, Marin and Sonoma Counties, just north of the Golden Gate Bridge, the first thing they bring up is IDEA. And the first thing they say about IDEA is that the funding is not enough.

For instance, if the federal government fully funded its share of IDEA, schools in Sonoma County would have received almost $20 million to help them educate students with disabilities. Instead, Sonoma County schools received just under $6 million, or about 15 percent of their costs. Almost every school district in the country could tell a similar story.

In 2003, the average cost of educating a child with a disability is expected to be $7,402 per child. If the federal government would contribute the 40 percent of the average-per-pupil expenditure that was authorized in the original IDEA Act, schools should receive $19-1/2 billion dollars in federal funds to help them pay for the cost of educating the more than 600,000 students

they will serve under IDEA this year.

As we all know, however, schools will receive far less. This year, schools are receiving $8.9 billion dollars from the federal government, or about 18 percent of the average-per-pupil expenditure. Congress cannot let this continue.

Special education costs for local school districts are rising significantly faster than federal spending for IDEA. If Congress had fully funded IDEA when we first passed the act in 1975, our state and local school districts would have had over three billion additional dollars to spend on other education needs.

Just think what schools could do with their share of $3 billion dollars. Teachers' salaries could be increased. Class size could be reduced. Schools could have been built or renovated, computer systems purchased. Even though federal funding for IDEA has been increasing, it is still more than $10 billion dollars short of full funding this year.

If Congress continues to increase funds for IDEA at this rate, it will be the year 2035 before the federal share of IDEA is fully funded. Our school children, both those with disabilities and those without, cannot wait 32 years to be fully funded.

I am very interested in what you have to say today. This is the beginning of a conversation before we mark up a bill that is very, very important to our children and our schools. Thank you. Thank you, Mr. Chairman.

OPENING STATEMENT OF RANKING MEMBER LYNN C. WOOLSEY, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – APPENDIX B

Chairman Castle. Thank you, Ms. Woolsey. We have a very distinguished panel of witnesses before us, and I do thank you for coming today. We have some individual members here who would like to introduce some of the witnesses. I would first like to welcome the distinguished gentleman from Ohio, Mr. Regula, to the subcommittee today. Mr. Regula has a constituent who is on the witness panel, and we want to extend to him the courtesy of introducing that witness.

Mr. Regula is important for other reasons as well. We authorize in this committee, and there is an Appropriations Committee, and the appropriations for education is handled by Mr. Regula's subcommittee. So everybody here be very good to Mr. Regula. Mr. Ralph Regula.

Mr. Regula. Thank you, Mr. Chairman. Go easy on the authorization. We are kind of short on money over there. I want to congratulate you for having the hearing. I think it is so important that you say what is working. Is this program achieving results, or are there ways in which some students, by virtue of better literacy, would not be necessarily part of the program?

I think it is great that you are evaluating this to determine not only funding levels, but the ways in which this is operated that will better serve those children that need the help. I am pleased to introduce as one of your witnesses in the panel, Dianne Talarico, who is the superintendent of

the Canton City School System in the 16th District.

Canton City is probably a microcosm of cities in America. They have dropout problems. They have problems of reading challenges. They have problems involving the community. And Superintendent Talarico has done a great job in her tenure. She came back to her hometown because she wanted to make the school system a better servant of the people. As a result, she has put a lot of emphasis on literacy. I think that is a component that you need to address in the IDEA program. She has put a great emphasis on pulling the community in through the community college. It is not a community college. It is a school with vocational, technical programs and the colleges to inspire these students to other goals that they can achieve.

She has given the system a lot of leadership in her brief tenure as superintendent, and has tried to maximize the community's resources, which is an important challenge for a leader in the school program. Superintendant Talarico has implemented partnerships involving the home, the community, and the higher education programs, which work towards a common goal. These partnerships have enhanced the opportunities of students in our community to make the community more attractive. Because people do tend to live and buy a home and settle in a community that has a good school system, I think it is a key component in keeping your community vital, and attractive to new businesses, and so on.

Superintendent Talarico understands those components as being more than just books and buildings. It is a matter of involving the teaching staff, the community all together as partners, and making this work. I am pleased that she can be here to testify. I think her testimony speaks more eloquently than any words I can use as an introduction.

Again, Mr. Chairman, I think it is terrific that you are taking this approach to saying that more money is not the only solution. There are also better ways in which the programs can be managed in terms of serving those who have a need.

I am sorry I cannot stay, but we are having an education hearing over in our subcommittee. Thank you for doing this, and thank you for having Superintendent Talarico as a witness.

Chairman Castle. Thank you, Mr. Regula. I do not want to suggest that we are ignoring money altogether either. But you have been very generous, sir. You have done a good job of helping education on that committee. We appreciate that.

We thank you for being here, Ms. Talarico. We are now going to turn for the next introduction to Mr. Keller, who is a member of the committee, and is one who has shown a great deal of interest in IDEA and the surrounding issues of concern to all of us. So we appreciate Rick's good work on that. Mr. Keller?

Mr. Keller. Well, thank you, Mr. Chairman. Today I am pleased to introduce a constituent of mine, Ms. Harriet Brown, to the committee. Ms. Brown is the director of Policy and Procedures for Students with Disabilities in the Orange County Public Schools. The Orange County Public Schools is located in Orlando, Florida. It is one of the top 16 largest school districts in the United

States.

I first came to know Ms. Brown after I solicited letters from my four local school districts for their suggestions for IDEA authorization. More specifically, I wanted their suggestions for reducing the paperwork burden for special education administrators, teachers, and parents. And I became interested in that issue after teaching for a day at a local high school and elementary school. I learned that these teachers were spending up to two hours a day doing paperwork.

Ms. Brown responded with a very eloquent letter highlighting her suggestions from her years of practical experience in the special education field. That letter has been forwarded to the committee staff, and here we are today.

I was very impressed with her advice and recommendations, as was the Education Committee staff, and I could tell right away that this was a lady who had a lot of experience in the field.

As I mentioned, she is the director of Policy and Procedures for Students with Disabilities. She has an impressive background with a Bachelor's degree in speech and pathology and audiology from Hampton University and a Master's in speech pathology from Case Western University. She also has her Doctorate of Jurisprudence, or law degree, from Tulane University, and has been a member of the Florida Bar for the past 13 years. She worked as a supervising attorney for the Advocacy Center for Persons with Disabilities. She has presented a lot of workshops and seminars throughout the State of Florida for parents and professional groups on special education, cultural diversity, and legal issues. Ms. Brown is very involved in the community, and works untiringly in the disability rights arena.

I am honored to have Ms. Brown here with us today to learn firsthand from her years of experience in the special education field. Welcome, Ms. Brown.

Chairman Castle. Thank you, Mr. Keller, and welcome, Ms. Brown, to you. I will introduce the next two witnesses. It will not be as flowery. I apologize for that.

First, we have Dr. Douglas Carnine, who is the director of the National Center to Improve the Tools of Educators at the University of Oregon. He also currently serves as a member of the National Institute for Literacy Advisory Board and the National Educational Research Policy and Priorities Board for the Institution of Education Sciences at the United States Department of Education. In addition, Dr. Carnine is the author of various journal articles and college textbooks that have shaped the way which students are instructed. We welcome you here, Dr. Carnine.

Dr. Larry Lorton is our clean-up witness today. He has served as the superintendent of the Caroline County School District in Denton, Maryland - so he probably came the least distance here - since 1999, and previously as the director of support services for the district. In addition, he has worked as a professor at Anne Arundel Community College, St. Mary's College, the University of Akron, and the University of Maryland at College Park. We welcome you, too, Dr. Lorton, to the panel.

Basically, now, we will start with the witnesses. You will each have five minutes in which to summarize the written statements you have made. The written statements, by the way, are part of the record, and everybody will have them. Then when we are through with that, we will have questioning by the members of the panel. Obviously, the lights will tell you what your timing status is. I think it is four minutes of green, one of yellow, and when the red goes on, you should think about trying to wrap it up. We will go from there.

STATEMENT OF DIANNE TALARICO, SUPERINTENDENT, CANTON CITY SCHOOL DISTRICT, CANTON, OHIO

Ms. Talarico. Good morning, Chairman Castle, Ranking Member Woolsey, and members of the Subcommittee on Education Reform. I am honored to have the opportunity to testify before you today. As superintendent of the Canton City School District in Canton, Ohio, and as a former special education teacher, principal, and associate superintendent in the San Francisco Unified School District, I have firsthand experiences implementing the Individuals with Disabilities Education Act, and I am keenly aware of the outcomes it produces for students with disabilities.

I am also a member of the Ohio 8 Coalition, a strategic alliance of superintendents and teacher union presidents from the eight largest cities in Ohio. Bill Seigferth, the president of the Akron Education Association, is here with me today.

In my view, all children belong to all of us. Prior to becoming special education students, they were general education students first. Students in special education are simply general education students receiving specialized support. I want to commend the members of this subcommittee, the full committee, and others in the Congress who sent this message loud and clear in the No Child Left Behind Act. That law has the potential to have an enormous positive impact on the education of students with disabilities, because it includes all students with disabilities and the expectation that they meet high standards, and they are a part of every aspect of the accountability systems we develop.

I believe the success of the No Child Left Behind Act and the reauthorization of IDEA are intricately woven together. The reauthorization of IDEA offers a tremendous opportunity to further flesh out these high expectations for students with disabilities. What we really want is to prepare all students to graduate from high school and have the skill sets to have choices and options available to them to either go on to post-secondary education or post-school employment.

There are three key recommendations regarding the reauthorization of IDEA that I would like to make today. First, provide state and local school systems with the opportunity to expand and intensify preventive pre-referral intervention services for students who are floundering. Too often, students are referred to special education because they are not succeeding in the general education setting, and they do need extra support or intensified instruction. While they do not need special education, they are often referred there anyway.

Special education, you see, has become a place where students who learn differently can be sent. I mean no disrespect to my general education colleagues, for they have not received the

training to meet the diverse range of student learning needs.

Students who experience difficulty learning how to read or have behavioral challenges need immediate intensive support services and intervention. What we do need is the flexibility to design and deliver those services in a manner that does not require extensive eligibility determination and assessment. Every school and every teacher knows pretty quickly when students are not succeeding.

We can and will reduce the number of students we refer to special education by permitting the use of funds to provide pre-referral services, permitting the initiation of services without having to work through the current maze of IDEA procedures and without having to identify a student as disabled, creating training requirements to educate staff on strategies to reduce disproportionate representation of culturally and linguistically diverse learners, focusing early intervention services on reading and writing problems within the general education environment.

IDEA could allow us to use a portion of the funding we receive in a flexible manner to serve students before they are formally referred to special education. We have already begun this type of pre-referral intervention program in Canton. We respond quickly to students who are having learning and behavior problems in order to meet their needs and reduce the number of students we serve in special education.

Second, I recommend that all high-risk children be provided with high-quality early childhood interventions. Recent research shows that a lack of kindergarten readiness is the single most significant reason for the achievement gap between children of poverty and their high socioeconomic counterparts. We need to ensure that the early intervention programs under IDEA Part C reach as many children as possible.

Expanded early intervention services will help us turn around the situation we are faced with now in many urban centers, where special education has become a place to segregate students who learn differently. Not all students learn the same way and at the same pace, but this does not mean they are disabled.

Too often, special education is a place where children of poverty and children of color with lesser opportunities for school readiness than their higher socioeconomic counterparts can be isolated. Students in urban settings, where we have high proportions of students of color and poverty, are too frequently the children that we have failed to teach or failed to teach well.

My third recommendation is to dramatically enhance and expand personnel preparation and personnel development for educators. I cannot overemphasize this point. Good intentions and good policy are not enough. The achievement and success that we produce for students is a direct correlate to the skill of the educators who serve them every day.

Every challenge we face in implementing IDEA, whether it be behavior management, effective reading instruction, over-identification of minority students, or excessive paperwork, is related to a lack of highly skilled personnel. The shortage of fully qualified special education teachers is the worst shortage in the country, and it is only growing. We cannot continue to place

unqualified people in classrooms to teach special education students and expect to achieve the expectations we have set in No Child Left Behind.

IDEA should expand professional development support for school districts and universities to train general education teachers and administrators with new skill sets to address the needs of ... diverse learners. They need both pre-service and ongoing professional development.

I recommend that you consider authorizing a national advisory panel to study programs that train educators in general, special, and gifted education, both pre-service and professional development. We need recommendations about how to ensure that all educators have the skill sets they need to be successful in educating students with disabilities.

Teachers must know how to deliver culturally responsive instruction. They must know how to adapt and modify the core curriculum within the realm of the adapted curricular standards. They also must be effective data collectors and assessors so they can monitor both short- and long-term progress.

In closing, I want to make sure I offer my support to the recommendations the committee has received from the Council of Great City Schools regarding streamlining the IEP process and reducing the paperwork demands on teachers and schools. In addition, though, you must assume from my statement that relinquishing responsibility to educate any student, regardless of the challenges they pose to a district, is something I could not support.

The area of discipline for students in special education, particularly those with emotional and behavioral disabilities, is a daily challenge for many school administrators and teachers. We need more and better alternatives to the traditional schoolhouse for some children. In other words, we need to do a better job finding effective ways to accommodate and to teach students who offer us the greatest challenges. We cannot simply turn them away.

Mr. Chairman and members of the committee, I would like to thank you for your leadership and insuring that students with disabilities are general education students first. I would be pleased to answer any questions you have.

STATEMENT OF DIANNE TALARICO, SUPERINTENDENT, CANTON CITY SCHOOL DISTRICT, CANTON, OHIO – APPENDIX C

Chairman Castle. Thank you, Ms. Talarico.

Ms. Brown.

STATEMENT OF HARRIET P. BROWN, DIRECTOR, ESE POLICY AND PROCEDURES, ORLANDO, FLORIDA

Ms. Brown. Good morning, Mr. Chairman. I thank you for the opportunity to present to the committee, to the chairman, and to Representative Keller. I am pleased that you already have my

information. You can tell that this is a very passionate subject. We could talk about this all day long, but I will try my best to keep my remarks to the time limit.

I have several suggestions that I think will help school districts, parents, advocates, and attorneys in this arena. IDEA is very passionate in its outline and in its guidelines, but there are some things that we need to work on. I think I can sum up a few of these.

We need to mandate a model state IEP form. There have been many issues on IEP development and the length of an IEP. That document alone can take as long as six hours to produce if, in fact, you take each single element and each part. The issue about mandating a state IEP would mean that each state, based on that state's standards, could work on the document. That would also help the Department of Education, which is responsible for monitoring. Right now, school districts are faced with monitoring visits, and we never seem to get anything right. If the state department were the one that started that monitoring and gave us the document, compliance would be much better. It would eliminate paperwork.

The other part for a state IEP is that we have a lot of mobility, and parents in one state would know what they are facing. Just because they move from one county to the other, they should not be forced to learn a brand new system. That model document would also help, because it would align with the No Child Left Behind requirements. States are required to have standards. Those standards would also be used for students with disabilities. Because what we have to think about is the student as a regular education student first.

Secondly, we need to eliminate the short-term objectives. This one entity really dictates the length of an IEP. I do understand parents like it, because it's the easiest part of the IEP to understand. I will learn my alphabets. I will learn "A," I will learn ``B," I will learn ``C." That document, because you have to list all of that, makes some IEPs 20 to 25 pages long. If we use state standards, you would not need to do that, because the IEP then, in fact, is not a lesson plan, but it is a guideline for the education for the student.

We need to change some of those IEP development and content requirements. I ask you to really look very carefully at that. The IEP as it currently is now is a document for the whole community. We have to list on their things that will help the student, as well as the teacher, the parent, anybody working with the student. States should be required to use their personnel development funds and make sure that we have training. But the IEP should be a document just for the student. When we have a number of people involved in the development of that document, it makes it much better.

We need to also look at the IEP team composition. I applaud the efforts in '97 to include the regular education teacher. But what we have now, in effect, is regular education students missing instructional time, as well as special education students. Because when you have a meeting and the regular education teacher has to go to that, another classroom of students has lost a day. Sometimes IEP meetings can be as long as six hours, depending on the people who are coming and the forthrightness, if you will, of the parent. That is absolutely too much.

If we can have input from all of the parties, it would be much better. Because each time we have to look at that document, we have to change the entire document. So with a model form, I think it would really help us in all of those aspects.

We also need to look at eliminating the triennial evaluations. One benefit with IDEA '97 is the requirement for progress reporting. When we have that requirement, every time a teacher in a three-month period does a progress report, you have done a mini reevaluation. There is no way that you can list the progress of the student without also including what actually has happened. You have to look at the whole child. So if there were no longer that requirement - that information actually does not just happen once every three years; it actually happens about every three months. With progress reporting, you have to give that information.

We definitely need to eliminate the requirement for procedural safeguards for parents every time we have a meeting. Our parents tell us that they can wallpaper their houses with all of the procedural safeguards. There are critical times that they need a reminder, and I think we should still give that to them.

We also would like to ask for a statute of limitations on claims for IDEA. Compensatory education challenges are the hardest for school districts. We are faced with a student who may be in high school and a claim that comes from something when he was in kindergarten. We really need to look at giving us that.

The last point is a cooling-off period before we have to file an IDEA due process request. If school districts could be allowed an opportunity to really review that to see how we can help rectify the situation, I think it would help all of us including parents, advocates, and school districts.

We need to get back to the spirit of IDEA, and that is to help all students learn. No Child Left Behind helps us do that. If we work together to implement both of those statutes, we can improve standards for all students. Thank you.

STATEMENT OF HARRIET P. BROWN, DIRECTOR, ESE POLICY AND PROCEDURES, ORLANDO, FLORIDA - APPENDIX D

Chairman Castle. Thank you very much, Ms. Brown. We appreciate that.

Dr. Carnine.

STATEMENT OF DOUGLAS CARNINE, DIRECTOR AND PROFESSOR, NATIONAL CENTER TO IMPROVE THE TOOLS OF EDUCATORS, UNIVERSITY OF OREGON

Mr. Carnine. Chairman Castle and Ms. Woolsey, I would like to thank you for the opportunity to discuss appropriate methods of identifying children with specific learning disabilities in the context

of the reauthorization of IDEA.

Let me start by saying that learning disabilities are real, and we know that they do exist. Yet unlike many other disabilities, learning disabilities are difficult to diagnose.

A learning disability, as defined in statute, is a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language, a disorder that may manifest itself in listening, thinking, speaking, reading, writing, spelling, or doing mathematical calculations.

Under the current regulations, the discrepancy formula is the basis for determining when a child will be eligible for special education services for a learning disability. The formula makes eligibility for services dependent on a discrepancy between an IQ in the normal range and an achievement level that is generally two or more years below grade level.

Unlike diagnostic practices in medicine, the scientific basis for IQ-discrepancy formula is weak. Discrepancy does not predict intervention outcomes, it is not related to genetic factors in learning disabilities, and it is not associated with unique profile and brain imaging studies.

But the major problem with the discrepancy formula is that it is a wait-to-fail model. For example, most students have to reach third grade before an achievement test can show performance two years below grade level.

Take reading, for example, which is an area of concern for as many as 80 percent of the students with a learning disability. We can predict as early as January of the kindergarten year which children will have difficulty learning to read. This is a risk factor for having a learning disability.

There are numerous studies that have shown that scientifically based methods for teaching reading can reduce or even prevent this failure. But with the IQ-achievement discrepancy formula, this kindergarten child will most likely have to wait until the end of third grade before being eligible for special education services. Even with remediation, children who have languished in failure for two years have little chance of success in later grades.

Most researchers, parents, and some advocates agree about getting rid of the IQ-discrepancy formula. The most promising alternative is the response to intervention model. The model would include five major steps.

First, target children who seem to exhibit a significant difference between actual and expected rate of learning.

Second, develop a plan to provide research-based intervention in the area the child needs to strengthen. Ensure that a qualified teacher teaches the child, that the teacher receives adequate training, that the teacher has access to the instructional materials called for, and that the teacher has the time to implement the intervention.

Third, monitor to document progress, or lack thereof, and regularly report to parents. One Internet-based system provides this type of monitoring for almost 450,000 children across the U.S. at only a cost of a dollar a day per child.

Fourth, in cases where the child is not progressing at a desired rate, determine if the intervention is being implemented with fidelity. And if it is not, provide additional assistance to the teacher.

Fifth, require that a lack of progress over a limited period of time leads to a child-centered evaluation conducted by a team described in 5(b) of the existing law. This process will likely lead to identification of a specific learning disability and to provision of special education services.

Dramatic improvements and outcomes for students with learning disabilities require more than doing away with the IQ-discrepancy formula. Schools must provide teacher training and support, and systematically monitor student progress and implement scientifically based interventions before, during, and after eligibility. With such a system, the failure rate in reading can be reduced to about two percent.

Such dramatic changes have been documented through brain images. And I do not know whether the visuals-yes, thank you. If you look at the images in the left hemisphere of the brain before scientifically based instruction, there is little activity during reading. After 65 hours of intensive scientifically based intervention, there is substantial activity in the left hemisphere resembling that of successful readers.

So we have research findings that go beyond educational testing to actually look at imaging of the brain to show what changes can be brought about by early intensive scientific instruction.

The success of the response to intervention model that it can provide is indispensable in solving the problem of over-identification of minority children for special education. Both learning disabilities and behavioral disorders can be identified at an early age, and through early intervention, the severity of the disability can be ameliorated.

The response to the intervention model avoids the problem of the misuse and inappropriate use of IQ tests in placing minority students in special education. Response to intervention can be as powerful in helping children with behavioral disorders as it can be in helping children with learning disabilities.

Most of the learning disability community agrees that the IQ-achievement discrepancy formula needs to go. It is ineffective, inefficient, irrational, immoral, and indefensible. The opportunity to put millions of students on a better trajectory toward academic success is before you now. Now is the time.

As was noted in earlier testimony today, the passage of No Child Left Behind for the first time in U.S. history places children with disabilities in the accountability system with all children. This is a huge step forward for children with disabilities, because now schools see that their achievement counts. This is the time to motivate schools to adopt the use of scientifically based

procedures and monitoring of student progress to improve the outcomes for students with disabilities.

One final comment. My wife is a retired special education teacher. She called me last night, and she said, ''This testimony you're giving today is maybe the most important thing you've ever done." Her heart was broken as a special ed director seeing children not being able to receive services they need, because she knew they could successfully learn to read in many cases. Thank you.

STATEMENT OF DOUGLAS CARNINE, DIRECTOR AND PROFESSOR, NATIONAL CENTER TO IMPROVE THE TOOLS OF EDUCATORS, UNIVERSITY OF OREGON – APPENDIX E

Chairman Castle. Thank you, Dr. Carnine.

Dr. Lorton.

STATEMENT OF LARRY LORTON, SUPERINTENDENT, CAROLINE COUNTY SCHOOL DISTRICT, DENTON, MARYLAND

Mr. Lorton. Thank you very much, Mr. Chairman and committee. I want to say at the outset that I second wholeheartedly the testimony that you have already heard. The only other point that I want to make is that I also second Representative Woolsey's opening comments about the importance not only of funding IDEA, but preferably, funding it under mandatory provisions.

I am not an expert by any means in special education. I have dealt with special education, obviously, for almost 35 years of my career, 25 as a superintendent. What I want to do this morning is really quite simple, and that is to try to put a face on special education in a school system.

Caroline County is one of 23 counties. The counties and the City of Baltimore make up the 24 school systems in Maryland. Maryland is organized a little bit differently than many states. Boards of education, unlike many states, are not fiscally independent. Boards of education in Maryland have no taxing authority. They have no opportunity to raise money locally. They depend entirely on the largesse of the state government and local county government. That is one of the reasons why IDEA is so crucial where special education is concerned, especially to us.

In that context, Caroline County, which is one of the smaller counties in Maryland, with 30,000 people and about 5400 students, is also one of the poorest counties in the state. Out of the 24 subdivisions, it is twenty-third in its taxable wealth per pupil, which is generally considered to be the single best measure of a subdivision's ability to generate revenues. It is dead last in spending per pupil. It is dead last in the amount and the percentage of revenues that we receive from our county government.

For example, if we received or if we spent the same amount of money in our county that Montgomery County does, it would mean almost 15 million additional dollars to our budget. If we spend the same amount of money per pupil that Howard County spends, it would mean almost $9

million to our budget - or $6 million to our budget. If we spent as much money per pupil in our county as does our next-door neighbor county, it would mean over $8 million to our budget. So in context, there are half the school systems in America below the mean that desperately need attention to IDEA.

Caroline County, in addition to that, has a 42 percent rate of reduced and free lunches. It has a 12 percent poverty rate. It has a 30 percent adult illiteracy rate. In a nutshell, it is a working poor place.

Despite all of that, and despite what the academic predictions would suggest, Caroline County has done exceptionally well in one of America's toughest accountability assessment programs in the nation. Over the eight years of the so-called Maryland School Performance Program, Caroline County has the third highest rate of gain in the state. In the last administration in 2002, Caroline County was exceeded by only two counties in the state in overall performance. We were third in performance.

The reason I tell you this is because, as has been mentioned or suggested, in Maryland's accountability assessment, every child is part of the assessment program, including, with few exceptions, every special education child. My purpose for going down this road is simply to point out that despite our wealth, despite the dollars that we spend per child, Caroline County, among others, is a very high-achieving school system, and we do deliver and maximize every dollar that we have.

Caroline County, as has been suggested by other testimony, believes very, very deeply in the importance of prevention. Caroline County has had for almost 25 years a full-time kindergarten for every child, fully supported locally without full state support. In addition to that, we have taken other steps, such as class size reductions to the average of about 17 or 18 in primary grades, and some other things.

If I can call your attention very briefly to page 4 of my written testimony, you can see the breakdown of where our special education children lie. And as has been suggested, the specific learning disabilities make up about half of our children.

I have two quick points. One is in addition to the regular services that we provide internally, Caroline County has done two other significant things to maximize its dollars. First, we have formed a coalition with four other counties to provide much needed but very difficult services, including audiology, speech and hearing therapy, and occupational and physical therapy. We do it jointly with over a million-dollar budget to which we all contribute. The reason for that is very simple. If we did not do it together, we would not be able to do it alone.

Secondly, we have also joined with several other counties on a transportation program to deliver blind and deaf children to their institutions by delivering them on Sunday night, and then picking them up on Friday morning.

Finally, I would like to just call your attention to the last two pages of my testimony. On Attachment A, you will see a bar graph. It speaks for itself. The black bars show the climb of our

local special education budget, and the stacked lighter bars show the state and federal contributions and revenues to our budget. The gap between the two is what we pick up locally. Special education is what it is. The services are not optional. They have to be delivered.

And finally, on Attachment B, there is a spreadsheet of our budget. Again, I just want to make one point on it. On the right-hand side, there are some who claim that the gap, the absence of money, and the services that we are not allowed to or cannot deliver because we do not have the resources, not only with IDEA, but also with No Child Left Behind, are vastly overrated.

If you look on the right-hand side of this spread sheet, you will note on the bottom that we actually devote over $5 million of direct and indirect costs to our 714 special education students. And that does not include any indirect costs allocated to instructional salaries, textbooks, or other instructional costs.

So we think we do a good job. We can desperately use additional resources if we had them. We could do a better job.

STATEMENT OF LARRY LORTON, SUPERINTENDENT, CAROLINE COUNTY SCHOOL DISTRICT, DENTON, MARYLAND – APPENDIX F

And in closing, I want to submit into the record a set of proposals and a position statement put together by the IDEA Funding Coalition [Submitted for the record. See Appendix G], and I will leave it right here.

Thank you very much, Mr. Chairman and committee.

Chairman Castle. Thank you, Dr. Lorton. Let me thank all the witnesses. Now is the time for the committee to ask questions. The same basic rules apply. We have five minutes to ask questions and get answers from all of you. We are looking for relatively brief answers if we can, so we can ask multiple questions. And we will go back and forth down the row here.

And I will start by yielding myself five minutes. Dr. Lorton, I just want to say one thing, not defensively, but just to make sure it is understood. In the last six, maybe seven budgets now, the federal government's contribution to education has increased, on the average, 14.5 percent a year, which is obviously well above the cost of living. Clearly, we are wrestling with the issue of how to get to the 40 percent level in terms of the funding of IDEA. It has increased in the time I have been in Congress - 10 years - from 7 percent to 18 percent. This is a significant increase. So we understand those concerns. But having said all that, and setting aside the dollars for the moment, I read on page 4 and 5 of your testimony about some of the special education services that you have. I was struck by the fact that your IDEA children are tested along with everybody else. Is there anything else you think you are doing well in Caroline County besides the things that are listed to help with the students with disabilities? Is there anything that is not in your testimony that you would like to highlight?

Mr. Lorton. Well, only in the context of previous testimony by Dr. Carnine, Caroline County has placed an increasing emphasis on preschool programming as part of the early diagnosis and early

interventions for almost 26 years, with its full-time kindergarten and lower class sizes. It would be safe to say that if we did not have that emphasis on the three- to five-year-olds, it is very likely that our special education population would be larger than it is.

I agree totally with the need for early intervention. A lot of children that end up in special education do not belong there, but the kids still need the help wherever it comes from.

Chairman Castle. And I want to ask other questions of other people. But I would agree that all of you touched in some way or another on early intervention. I happen to agree with it entirely. And I think several of our programs are oriented in that direction. However, anytime you have anything definite that we can do here at the federal level, we are always interested in what that could be.

Let me turn to you, Ms. Talarico, for a minute. You indicated in your final point that we should dramatically enhance and expand personnel preparation and personnel development for educators. I agree with that. There are some provisions in IDEA now that allow for personnel development, et cetera. But how would you expand that? Would you expand it at the colleges of education? Would you expand it in what is being done at local and state levels, as well as what is in IDEA? Is there something different we should do in IDEA to help with this area?

Ms. Talarico. Chairman Castle, I believe that it needs to happen at the pre-service for both general education teachers and administrators. I do think that they are going to require new skill sets to address the needs of the diverse learners.

I also believe that there has to be ongoing professional development throughout educators' careers, continuing to enhance and expand the repertoire of skills to respond to the children that we are serving.

Chairman Castle. Is it your experience that administrators are not familiar enough with the problems of IDEA or not? I do not mean to put words in your mouth, but -

Ms. Talarico. I think what is interesting in our country is that over the last 10 years, school leadership has gone from plant management to seeing them as the instructional leader. So I think they have to have general knowledge about everything - about bilingual education, special education, general education, and gifted education. However, they are the instructional leaders in that schoolhouse, and they set the tone.

I believe that they need to be cognizant of special education laws and the practices, and I believe that they need to embrace all the children that they serve, and demonstrate that to the faculty in the schoolhouse and the community. It is really essential that school site leadership make everybody accountable for all the children, and we all have to take responsibility for all of the children. It is not an ``us'' and a ``them.''

Chairman Castle. Just a quick comment on that. Having been in schools, the administrators have a lot to do besides just the academic part of it. Sometimes it concerns me that we do not free it up enough. Let me turn to Ms. Brown concerning the uniform IEP. I think you talked about a uniform state IEP, and tied it in to the new standards, and eventually the sustenance we are going to

have.

I believe that interests all of us here. We are all concerned about the work that goes into the IEPs, which relates to the paperwork and the other issues that we are talking about as well.

I am not sure how this really works, because I do not do this on a regular basis. However, is it your judgment that we have the federal guidelines for this, so we are going to try to issue more in terms of this legislation? And then the state gets involved, and sometimes the local districts get involved. But do you believe that there could be a state IEP that could be used without any add-ons at a local basis that could be shared, and perhaps something that could be understood from one state to another? That is, the states may be slightly different, but Texas would understand what the IEPs of Oklahoma are, et cetera?

Ms. Talarico. I think if we can start with the state IEP, and then eventually, it may work to a federal one, it is going to also relate to school administrators. We need a document that everybody can understand.

So within a state, every district does an IEP. Every time a parent moves, or even if you get one into your district, you have to start the process over. It will help with the state, because with NCLB, you have state standards.

So the state department is working on those guidelines, and they are also working on the IDEA guidelines. It will also help if there are any new add-ons, because then that entity will be the one to change it for everybody, instead of repeating the same things. Then you find out later that you have not implemented what you needed to.

But if we could start with a required state version, I think it would help the process.

Chairman Castle. I mean, I have got to tell you, that honestly makes a lot of sense to me. My time is up, so I cannot really ask the others about it. I would be interested in your thoughts about that. I think it makes a lot of sense. I think there is a great deal of personalizing these IEPs, and there is a lack of comprehension about what it all means. Maybe I am wrong about that.

Ms. Talarico. No, you are not. You are not at all.

Chairman Castle. Maybe the people here are greater experts, but we would like to know more about it. Let me turn to Ms. Woolsey.

Ms. Woolsey. Thank you, Mr. Chairman. Before my clock ticks, I would like to recognize Zero to Three, a research-based national organization that is committed to promoting the healthy development of our nation's infants and toddlers, and continuing to seek authorization for Part C of IDEA [Submitted for the record. See Appendix H]. I have to enter in the record some information from them, if you would so allow.

Chairman Castle. Without objection, it will be entered in the record.

Ms. Woolsey. And thank you. And I would like to make a comment and compliment the members on this side of the aisle for being so interested in IDEA. Look at this. I am really proud of all of us. Thank you.

Dr. Lorton, one of the things that is so important to me is that we get to 40 percent, you know, funding. But I am so worried that when we get there, the money that we replace, that we take care of, will not end up still in elementary/secondary education programs as it should be. And could you see how we're going to make sure that can happen? I mean, that we do not give the money to the states, and then end up with the school districts still being short all the way around?

Mr. Lorton. I never thought I would sit in a situation like this and respond positively to the potential for additional federal regulations.

Mr. Lorton. Truly, I think - and I cannot speak for the other 14,500 superintendents that are in this nation. I have two points. One is that most school systems, particularly those that are poor and have a more difficult time paying for services, would not have any difficulty in taking every dollar that an increased funding in IDEA may represent a replacement for and use it in the classroom. Most school systems devote well over 75 cents on every dollar they have either in the classroom or in the schoolhouse.

I will tell you that I, and I believe most of my colleagues, do not shy away from accountability. I mean, it is what it is. We have no problems with accountability. But I think the needs are so great.

Our budget request in Caroline County this year and next year, for example, is almost $2.4 million less than we are actually asking for. We would have no problem spending those dollars. We would reduce class sizes, provide greater and better services in special education, and provide and deliver a much better quality of interventions and support for at-risk children in our middle schools. Additionally, we would develop time during the school day for children who do not have support at home to do their work with professional guidance. There is no end. And honestly, I think most of us would operate in such a way that you would not have to worry about that.

Ms. Woolsey. Thank you very much. What I want is the accountability on the state side. I am not worried about the local superintendents. Let's start down here with you, Ms. Talarico, and see if each of you would answer that question quickly. Because he is going to not let me have all the time.

Ms. Talarico. I think we have to be somewhat cautious about leaving interpretation up for grabs among the 50 states. I would like to agree with what has already been said and ask that regulations and stipulations be forthcoming from the federal government to the states. Also, I believe school districts will do what they need to do with it and will be accountable for the expenditure of those funds.

Ms. Woolsey. Thank you. Ms. Brown?

Ms. Brown. As a lawyer, you think I would love interpretations. But there needs to be clear, defined guidelines. Because again, interpretations are just that. Each person can do what they want. And we are looking to you to give us that information.

Ms. Woolsey. Thank you. And we should not leave Dr. Carnine not-

Mr. Carnine. This is an area I really do not have a comment on.

Ms. Woolsey. Oh, all right. Thank you very much.

Chairman Castle. Thank you very much, Ms. Woolsey. Mr. Osborne.

Mr. Osborne. Thank you, Mr. Chairman. Thank you for being here this morning. I would like to address this to Ms. Talarico and Dr. Carnine. I noticed that both of you referred to over-identification and misidentification. I think the word ``dumping" is used in at least one testimony there.

I wondered if you would take a shot at estimating how many students you feel are either over-identified or misidentified in IDEA. As Dr. Lorton pointed out, funding is a concern. Everyone would like to see us get the 40 percent.

Of course, I think the way the law is written is up to 40 percent, and I do believe that you have had about a 250 percent increase in the last 10 or 11 years in your district. Given the economic climate in Washington, as much as we would like to see it go to 40 percent, I think we will see an increase over time. It may not jump up to much over 22 or 23 percent next year.

So what we are really interested in is seeing if we can reform the system. I noticed you had 47 percent of the students in your district identified with some type of learning disability. My concern is whether we are making some mistakes here. Are we getting some children in IDEA that should not be there?

If Ms. Talarico and Dr. Carnine would take a shot at the questions first of all and then express any other thoughts you have, I would appreciate it.

Ms. Talarico. I really think that the majority of children who are ending up in high incidence learning disabled classrooms have reading difficulties, and we must address that. People who are teaching children at the pre-K, early childhood, and primary years need to be experts in reading instruction.

I do not know if that means we need to have reading specialist certification for them. But by and large, the children who are learning disabled have reading deficiencies. That is a huge concern that I have.

Also, I would like to say that I think that there are some inconsistencies applied when people are at the assessment stage of the special education process. I am not certain how consistently our educational assessors and school psychologists are determining eligibility. That is

a whole piece that I am not an expert in, but I think needs to be looked at.

Mr. Carnine. In answering your question, it is important to understand that learning disabilities occur along a continuum, something like hypertension. So it is not a yes-or-no malady. What that means is that the environment can make it more severe or less severe, just like diet and exercise can make hypertension more severe or less severe.

I think if you did away with the IQ-discrepancy formula and allowed earlier intervention, over the next 10 years, you would reduce the severity of learning disabilities in probably hundreds of thousands of children. Many of that number may not need to have an IEP, because they are getting the support in general education in the preventive instruction. That makes it unnecessary.

I want to emphasize that this is possible for minorities who end up in other categories, as well as children with learning disabilities. The columnist William Raspberry and I had this conversation about a half a dozen years ago, actually longer. We know so much to help kids early. It would make a great difference that when we have federal regulations, like the IQ-discrepancy formula that actually interferes with science, it really is, that we realize that is a signal that it is time to make some changes.

Mr. Osborne. If I might just comment. Where I am trying to go with this is that we are a little less than 20 percent of full funding, or 40 percent. And if some of the interventions that you mentioned could be implemented and we could reduce the number of children in IDEA by 30 or 40 percent, we would be a lot closer to 40 percent right now. I think there is some suspicion, at least in my case, where I think that we may not be spending all of our money real wisely. Certainly Head Start is important.

I agree with you on the IQ issue. I used to work with athletes. If you had a culture-fair IQ test, many times, it made a hundred points difference on the SAT. And people did not understand that.

So my time is up, and thank you.

Chairman Castle. Thank you, Mr. Osborne. Mr. Case.

Mr. Case. Thank you, Mr. Chair. Preliminarily, in preparation for this hearing and the issue of reauthorizing IDEA, I wrote on March 6th to my governor, as well as a number of people in my state, asking for their comments on issues and areas where we could improve IDEA. I have received back responses and would ask unanimous consent to include those communications in the record [Submitted for the record. See Appendix I].

Chairman Castle. Without objection, the communications will be included in the record.

Mr. Case. Thank you very much, Mr. Chair. I want to initially also associate myself fully with the remarks of my ranking member with respect to funding, full funding for IDEA. It seems to me that this is an area of potential disagreement, and I would simply say that the failure to fund 40 percent, which is what the expectation was at the state level, is not a question that is beyond our control. It

is a matter of priorities, and it is a matter of commitment, so it is not dependent fully on the financial situation. We do have the flexibility to fund fully.

The picture that I get in my state, and I am sure it is no different in most other states, is of a system under which we have teachers and administrators totally committed to servicing IDEA children, struggling under an absence of funding under a variety of federal mandates, awash in paperwork, and devoting time and resources to everything other than the actual working with IDEA kids.

I think we all want to provide full services to IDEA. The previous questioner's remarks about over-identification indicate one area.

What I want to focus on - and Ms. Brown, I think your testimony touched perfectly on it - is that it seems to me that one area that we all have common ground is in the area of trying to somehow get control of the adversarial nature of the process, and trying to get control of what seems to have become really a great consumer of time and resources in this system.

I appreciated your testimony. I think you are a very interesting witness, because you have been on both sides of this. You are administering this, and yet you are a lawyer representing the other side. So I think you come to this issue with great credibility, because you know the ins and outs of this system, and know what is broken.

And Ms. Talarico, I just wanted to ask you, you focused on another area. Although you are also an administrator, you are an observer. Do you agree with Ms. Brown's testimony about areas that we could investigate to try to mitigate the adversarial nature of the process of identification, the process of IEPs, in a way that would be fair, and yet would not cost more money, deplete resources, and add paperwork that is simply bogging the system down?

Ms. Talarico. I absolutely support everything that Ms. Brown said. I am glad that she got to cover an area that I could not. Those five minutes went faster than any five minutes I have ever experienced in my life.

But I do support everything that she said. And it is interesting, because I shared with her our IEP from our local school district. And, you know, she rolled her eyes and shook her head, and that is what I did when I saw it.

We must do something about the form and create a model form that people across states and across school districts within a state can comprehend. We also must make them more parent-friendly, if it is indeed the guiding light for an educator who is going to be working with the child, but also something that a parent should be able to understand in terms of what kind of special help or special instruction we are giving their child. It should be very clear.

The only other comment that I wanted to make is that she is a very gifted person to be on the legal side and the school side of the coin as it relates to special education. I, too, think that we have got to get ourselves to a system that allows dispute resolution rather than litigation. That is not really helping anybody. And the person who probably loses out while all the adults are running

around trying to figure out what process is violated is really the child.

Mr. Case. Thank you. My five minutes is going very fast too. I appreciate that. Ms. Brown, a couple of quick points: yes, no, maybes. How about binding arbitration rather than - how about required mediation and then binding arbitration versus the other way?

Ms. Brown. I like required mediation.

Mr. Case. Okay. People are opting out of mediation, right? They are just not going there.

Ms. Brown. Yes.

Mr. Case. How about the elimination of damages as a remedy in the instance of - that's being provided by courts, where if there is - sorry, go ahead.

Ms. Brown. We would welcome that.

Mr. Case. Okay. How about balancing on attorney's fee size? Pretty easy to get attorney's fees if you win right now. The information I have is that states are essentially not contesting, because they just do not want to take the risk of the attorney's fees.

Ms. Brown. Exactly. We have to litigate to do that.

Mr. Case. I wish I had five more minutes to keep on asking yes-and-no questions of you. You said yes to everything so far.

Mr. Case. Thank you very much.

Chairman Castle. Maybe you can persuade some of your fellow members to yield to you, you know. Good luck with that. Thank you very much, Mr. Case. Mrs. Biggert.

Mrs. Biggert. Thank you very much, Mr. Chairman. Actually, my question is very similar to Mr. Case's. I have spent some time in the last few months going out to the various schools in my district asking them about reforms for IDEA. And certainly, reducing the adversarial character of IDEA was a major one.

I was glad to see that the things that you have mentioned, Ms. Brown, in your testimony were very similar to ideas that they had for streamlining the process. And just the word mentioned was the one-year statute of limitations for claims raised before a due process hearing officer, and also, precluding attorney fees for prevailing parties for purely procedural or technical violations that could be addressed with a complaint with the SEC or the Office for Civil Rights.

We had a case in one school district where it was $600,000, and it really was based on procedure. To me, that seems like an outrageous cost that those school districts could not bear. So you would agree with that.

Ms. Brown. Yes.

Mrs. Biggert. Good. Then to provide school districts with notice in a one-month time period without attorney billings to resolve issues related to the appropriate public education. I think so many times, the clock starts running, and so many of these attorneys just come in and start -

Ms. Brown. That is our hardest issue. If we have that time to cool off and what we are facing, many times we can resolve it before lawyers are involved.

Mrs. Biggert. Would you like to add anything, Ms. Talarico?

Ms. Talarico. No. Ms. Brown covered it. Thank you.

Mrs. Biggert. Okay. Let me just come back to another question, I think, that we keep talking about this, but it is hard to answer. So many of the children that seem to have been identified and placed in special education, they say, were placed because of purely reading issues. I do not know if we need another category. However, I think with the emphasis on No Child Left Behind, that the reading issue is caught early - and they say even third grade is too late. We really have to identify them before that, and that is where the Head Start and Early Head Start come in.

But how do we reach those kids that are going to be identified really early on? And how are we going to be able to really concentrate on those kids that really need the special ed and put the reading issue into another category? Do you have any ideas for what we could do to separate those two? Or should we keep them the same? Ms. Talarico.

Ms. Talarico. I would like to agree with - I am sorry. I have forgotten -

Mr. Lorton. Larry.

Ms. Talarico. Larry. We are utilizing some of the same strategies in Canton that he is using in Maryland: all-day kindergarten and class size reduction. We have an extensive pre-K program. I am not certain that coming up with another category is really going to be the answer.

I really think the teacher training institutes have got to look at what it is that they are teaching in terms of preparing people during pre-service before they come into the classroom. And then in the meantime, we have to augment those that have already graduated from the university with skill sets to be able to help children who are experiencing reading difficulties. We need an expansive repertoire of instructional strategies that they can use to intervene. And if they themselves cannot do it, that is when we mentioned earlier about the preventive pre-referral intervention services.

And so one of the things that we are doing in Canton is that we have literacy lead specialists in each of the elementary schools that help teachers figure out what they can do with children who are struggling at reading in the kindergarten, first grade, and second grade. They are only now working with kindergarten, first grade, and second grade teachers. The need is across K-5, but the

concentration has to be as early as we can identify and attempt to remediate.

Mrs. Biggert. One of the school districts has a program, that I thought might be helpful, that identifies kids earlier than when they get to school. They provide a set of books for pediatricians. And these books are given to the mother when she comes in for the first six-week checkup. And it has ''Good Night, Moon,'' and a few of those books. It also has a book that gives you other books that would be something that could be used.

What it does is provide a form that they fill out, and then that goes to the school district. When that child arrives in the school district, teachers can go back and make an evaluation if that really is helping. We are always trying to evaluate and stress accountability. How do we get hold of that early, early in a child's education? It seems to be working that they can then identify if they are ahead in their reading skills when they get to preschool or whether they are behind.

Thank you. Thank you, Mr. Chairman.

Chairman Castle. Thank you, Mrs. Biggert. Ms. Majette. And by the way, while we have a lot of members here, let me just say, because I really meant to say this before, in our hearings, the basic protocol that we follow is that we call on people when they arrive here, as opposed to seniority. It gets confusing when people come and go, and then we have to subtract minutes. No, we do not do that. But, we try to do it as fairly as we can. I take advice from that side as to what the order is going to be.

So if you have anyone to blame, please address it to whoever is giving us the list. But Ms. Majette is next on the list.

Ms. Majette. Thank you, Mr. Chairman, and good morning, ladies and gentlemen. Thank you all for being here.

My question is addressed to Dr. Lorton. I wanted to find out your perspective on this achievement discrepancy formula. Do you think that that method of determining whether or not there's a learning disability, is that a satisfactory method, or is there something else that you particularly think would be more helpful or instructive?

Mr. Lorton. I am not a researcher, but I have an enormous respect for the kind of work that Dr. Carnine does. On a very practical level, it is a problem. I think Dr. Carnine's recommendation to address it is something that would be a dramatic improvement.

Ms. Majette. And I guess do you think that there would be a cost involved in making that kind of transition? And I am using the word ''cost'' broadly, not just necessarily the financial cost involved.

Mr. Lorton. Well, I am not sure. On one hand, in special education, there probably would be a cost reduction because fewer children would be identified as needing special education. But on the other hand, the services, the interventions, and the support that the kids need will have to be delivered through some vehicle. I am not sure what the balance would be.

Ms. Majette. Thank you. And Mr. Chairman, if I may, if I have time remaining, I would like to yield the balance of my time to the gentlewoman from California, Ms. Woolsey, if she has additional questions.

Ms. Woolsey. Well, aren't you wonderful. Of course I do.

Chairman Castle. What happened to Mr. Case and all those people who -

Ms. Woolsey. I am sorry, Mr. Case. I would like to know, Dr. Carnine, if you have an opinion or comment about the use of psychotropic drugs as an intervention. Ritalin, et cetera? Are we over-using it? I mean, I have my opinion, believe me, but I would like to hear yours.

Mr. Carnine. I am not really an expert in this area, so my comment will be brief and should not be taken with much weight.

Ms. Woolsey. All right. Then I want each of you to comment, if you want to, on that.

Mr. Carnine. I was initially very skeptical, but it seems that there are some cases where there is evidence to indicate that it is beneficial. But it does not seem to be a treatment that is like an antibiotic for an ear infection, which has universal consistent effects, and there needs to be more monitoring of what the effects are on the individual, rather than assumption that by doing it, it is solving a problem.

Ms. Woolsey. Dr. Lorton, do you have an opinion on this?

Mr. Lorton. I have been serving on a committee in Maryland studying special education, and I sat on the subcommittee that had to do with medications. The committee was made up of experts - physicians, pediatricians. For almost 18 months, they have been debating this very question without unanimity and resolution. It is tough for the experts, much less those of us who are not experts.

Ms. Woolsey. Ms. Brown? Thank you.

Ms. Brown. We have many cases where we have seen those drugs help students. We have parents who refuse to give their children the prescriptions when they come to school. Our issue is we do not want teachers getting into the habit of recommending that a child take a certain type of drug. It happens. Because those parents then come back and want to file for us to pay for them.

Ms. Woolsey. Oh.

Ms. Talarico. I am not an expert in this area either, but I would prefer that we exhaust all avenues - diet, nutrition, allergies - before we prescribe medications.

Ms. Woolsey. Thank you very much. And I have one minute. Mr. Case, I will yield to you.

Mr. Case. Ms. Brown, Pat Hamamoto is the head of my school system, and I am really working off of her collated responses. She mentions a USDOE policy recently adopted that basically prohibits educational agencies from initiating a hearing to override a hearing officer's determination of whether some parents refuse educational services. Usually what that does is a combination of statute of limitations. It comes back to bite you later on. Basically, the comment is that we should do away with that prohibition. What is your thought on that?

Ms. Brown. Most definitely. That is one of the things that was changed in 1997. I think that we forgot. When you asked us to start getting parent consent for reevaluations, that consent initiative really caused some problems. We do feel that there are some students that need services, and often, the parents do not understand everything that is involved. That still would not negate their right to file a due process hearing.

The school district does need the authority to go ahead and provide the services, because that is the key. It is the child. We want to make sure that they get the services they need. So I concur.

Mr. Case. Thank you.

Chairman Castle. Thank you, Ms. Majette, Ms. Woolsey, and Mr. Case. Mr. Platts.

Mr. Platts. Thank you, Mr. Chairman. I would like to first thank all four of our testifiers for your testimony here today, but also, most importantly, your dedication to our children with special needs, and in all your different capacities.

First, just a comment on Ms. Talarico. I hear a lot about your comments, and especially your focus on the Part C early intervention. I would be interested if you have any comments you would want to share on issues that are brought to you, not just having better access to the early intervention, but having a more seamless transition between Part C and the next stage.

Ms. Talarico. Thank you. Part C is absolutely where this needs to begin. The formative years are the most important years in a child's development. I appreciated the comments earlier about the pediatricians giving parents books. If that is how we can get to them earlier, then we need to employ that strategy across the nation. It is something I will be exploring in my own community.

What is happening is we are paying for this lost time that we do not get them from zero to five. We are paying for them in special education much later on, and the cost is becoming prohibitive. So anything that we can do to emphasize, expand, or enrich, Part C is an absolute must. Then our preschools, Head Starts, and private preschools, must work with the local school districts, if that is where the children are going to come.

To make those transitions as smooth as possible, there needs to be articulation about any heads-up that must be given to the receiving educators in the K-5 system and K-12 system, to respond to the needs of that child early.

Mr. Platts. The concern I have is when that transition occurs, that with the way the law is written, it does not allow a very seamless transition. It is kind of like starting over, because you are in the new system.

Ms. Talarico. I want the records transferred. I want any information that we have on a child from zero to 4-1/2 or five to be given to the local school district so we are not starting over at square one.

Mr. Platts. I share the - whether it be an early intervention or for all children, early intervention and early education opportunities.

I took the studies on brain development and zero-to-three very seriously. When my son was born, who is about to turn seven, he traveled with me a lot when I was in the State House his first eight months. I would be sitting in my office at age two or three months reading him books and, someone said, ``You're reading him books? He cannot understand." I said, ``well, he cannot understand, but those neurons are developing." So the more we can do.

So much of what we are trying to do is fix or address problems in special education and funding and everything down the road. But, I hope that through our committee's work and the full committee that we can focus on the beginning stages. Because we know, as you said, and the documentation shows so well that if we do it right up front, we are going to have less challenges down the road. I hope we do that. I appreciate your efforts.

And quickly, Dr. Lorton, your comments and experiences with your school system demonstrate that you certainly are doing a remarkable job, given the resources you have. If I understood your comments, the grant money you receive is more than 70 percent greater than the actual funding? Can you explain that? It sounds like the 17 million in grants are really keeping you afloat.

Mr. Lorton. Well, that 17 million includes some of those so-called entitlements, including IDEA. But we hustle. I mean, you can tell from our local appropriation that you are absolutely right. Without it, I do not know what we would be doing.

Mr. Platts. Question. I am a strong supporter of the 40 percent funding. We gave you the mandates. We need to give you the funding. As we work forward and we have increases, the Congress in the past several sessions has started to get us out of the single digits, now in the teens, and as Representative Osborne said, going into the 20's, hopefully, here in the near future, is there any concern at the local level of the states not appropriately passing that money on to the local districts? Are you seeing that at all in Maryland, or is it really getting out to the local districts appropriately?

Mr. Platts. I did not mean to put you in a difficult spot. But, what I am asking is whether we need to have any language specifying that as we give more federal money to the states, they do not just lessen the states' support, which would prevent the locals from getting an increase?

Mr. Lorton. I think I would answer that very simply by seconding Ms. Brown's earlier comments. That is an area, perhaps, of regulation that would reduce the interpretation that would be very

helpful.

Mr. Platts. Okay. Thank you all for your testimony and thank you, Mr. Chairman.

Chairman Castle. Thank you, Mr. Platts. Mr. Davis.

Mr. Davis. Thank you very much, Mr. Chairman. Dr. Carnine, my mother used to always tell us that an ounce of prevention is worth much more than a pound of cure. And so I agree with you in terms of early diagnosis and early intervention.

Since we kind of know this – I mean, we are learning it - what can we do to convince more school districts' policymakers that this is really what we need to do, and we need to do it across the board?

Mr. Carnine. Well, there are several things. One, as I mentioned earlier, is to get rid of the IQ-discrepancy formula, which actually is interpreted as meaning you cannot do that.

Secondly, I think that it is important that the research from NICHD and the Office of Special Education Programs be supported in terms of translating to teachers and practitioners. There have been several comments about pre-service development and in-service professional.

I want to add a comment, and that is there is a need for accountability here. Colleges of education and professional development efforts in districts need be held accountable for adult learning for the use of those funds. Because too often, colleges of education do not have incentives to keep up with the research. Let me put it that way.

I think the funding flexibility that has been discussed by others on the panel in terms of putting money into pre-referral and early intervention and identification is important. We now have instruments that can even be used to alert teachers and parents with four-year-olds that it is worth looking further into special needs for that child and special help.

I think you are right. We do know a lot, and we need to have the flexibility for schools to do it. They need the training and the accountability. We need to remove regulations that interfere with doing that.

Mr. Davis. Thank you. Ms. Talarico, you mentioned the shortage of special education teachers. Is the shortage so severe that it requires some kind of special action or special scholarships or special recruitment efforts or special orientation to cause individuals to go into this area of work?

Ms. Talarico. We are engaging in activities right now that would qualify as special recruitment activities. In Canton, we are diversifying the work force, and we have a grant from the states. We are actually paying for 21 folks to go back, in addition to their Bachelor's, and get a teaching certificate in special education math and science. And I think that is going on pretty much throughout the country, but the demand is greater than the supply that we have right now.

Mr. Davis. Very good. Thank you. Ms. Brown, you mentioned that parents should be limited to one reevaluation request in the three-year period. Is this thought driven simply by cost, or is there some other consideration?

Ms. Brown. Oh, by no means, it is not by cost. With the progress reporting, we already do many reevaluations MINI. Every time a teacher looks at the child, they are looking at the whole child to provide information.

What I was talking about is that one parental request that we do not want to deny a parent at any time is a chance to tell us that they feel we need to look at their child and do some other testing.

But clearly, doing it once every three years when there is no need, when nothing has changed, is really something that does drive the cost up in special ed.

Mr. Davis. So if there is a special request, then that would be honored.

Ms. Brown. Yes, based on category.

Mr. Davis. Thank you. Finally, Dr. Lorton, I must confess that I am intrigued by what you have been able to do with disabled children or children with disabilities in your district. Now, do you have other programs that are just as effective, or is this just something that you are able to do with children with disabilities?

Mr. Lorton. Yes. The short answer to your question is yes. But, let me hasten to add that we suffer when kids move into middle school. We suffer the same malady that most school systems suffer, and that is that the assessment gains that appear in elementary school tend to fall off. For example, our eighth graders on the same assessment exams do not perform as well as a group as they do in grades three and five. And that is true of both our own internal Maryland criterion bar-setting assessments as it is for standardized nationally standardized tests.

But again, we put every dime that we can put into early childhood and the prevention modes, interventions, and support.

Mr. Davis. Thank you very much. I will just say that as a former teacher and one who has spent a lifetime of looking at inner city schools and poverty-stricken areas, you do an outstanding job.

Chairman Castle. Thank you, Mr. Davis. Mr. Wilson.

Mr. Wilson. Thank you, Mr. Chairman. And thank all of you for being here this morning.

Ms. Brown, my wife is a schoolteacher, and I hear from her. That is very important. I hear from other teachers concerned about the paperwork burden. Out of your suggestions, what do you think can be done to reduce the burden?

Ms. Brown. The clearest suggestion that would start would be the model state IEP form. Right now, every time a child comes into a school district or is newly identified, we start the process. The reason that most teachers leave this field is due to the paperwork. If they compare themselves to their regular education counterparts, they do not have this much to do.

The second reason is the adversarial nature of the work that we do. But a model IEP form would really help so we can tailor it to the compliance requirements of the IDEA and of the state. Then everyone would know the same thing including school administrators, parents, and everybody working with the child.

Mr. Wilson. Amazingly enough, you jumped to the second question that I had regarding the IEP. I have been a consumer. Two of our sons went through the IEP process. One just graduated from law school and the other is a junior in college. So it is successful, but the paperwork is extraordinary. Can you give us a little bit more about the model IEP program?

Ms. Brown. Well, as a matter of fact, Florida did have a model form, and our district adopted that, but all districts in our state did not. We are on the county system. There are 67 counties in the State of Florida. If that model form had been adopted by all districts, most of the mobility of students would be from county to county. So a parent who moved from Miami to Orlando would simply have the same document. We could look at that, and then start providing the services.

Mr. Wilson. That is terrific.

Ms. Brown. Yes.

Mr. Wilson. Dr. Carnine, if we know that there is an IQ discrepancy and that it is flawed, meaning for the needs of special education services, and there are new approaches which have not been fully tested, how can we form a transition?

Dr. Carnine. Well, I think one of the issues will be the timing. I do not think it is reasonable to expect all districts to be able to move to a new model when the law is signed, so there has to be a consideration about what the phase-in is. There needs to be support in terms of clarity about the use of funds from IDEA, and also encouragement to bring to bear the Reading First funds and the Title I funds.

I think as several of the members have pointed out, much of it is a reading problem. There needs to be a focus on this, an intensity, and a coordination.

The OCEP training efforts to provide training to our urban districts and large schools, states, need to go forward, so that people have the best research and training models. They need good information about how to move forward on this.

I think there are several things that can be done to make the transition possible. And it is also important to note that some states have adopted this state-wide. I believe just recently that the State of Ohio released new documentation along these lines. I believe Texas is going to start next

month.

Mr. Wilson. Excellent. Ms. Talarico, I want to make you aware - I am sure you are concerned about the shortage of special ed teachers - that I have introduced a bill, and it is part of the President's budget. It is his plan to increase a loan forgiveness up to $17,500 for persons to teach in disadvantaged school districts. I need for you to speak with some of the wonderful and good senior members of Congress to urge them to look at this bill.

Also, Dr. Lorton, I want to point out that I have a new interest in education in Maryland in that my daughter-in-law is currently in labor at Bethesda. And so we are getting word any time about a new student here in Maryland.

Mr. Wilson. Thank you for your service.

Mr. Lorton. She would love it in Caroline County.

Chairman Castle. Thank you, Mr. Wilson.

Mr. Grijalva.

Mr. Grijalva. Thank you, Mr. Chairman. As a personal observation, I was elected to a school board in Tucson, Arizona, in 1975, the year that IDEA took effect in our school district. It was welcomed by all of us with a great deal of promise and hope about reaching up and providing opportunity to children that had been left out of the educational process for too long and not well attended to in terms of their learning needs.

Also, we were told repeatedly as school board members that magic 40 would be with us one of these days. And now I am in Congress, and I hear from my former colleagues in school districts asking us about that magic 40. So I, too, appreciate the ranking member's comments about mandatory funding, whether it is an immediate infusion to that commitment, or whether it is a process, a mandatory time line sequence to reach that number. I think most school districts would welcome it.

Let me follow up on that if I may, Dr. Lorton. According to the data that I was looking at, Latinos, Native Americans and African-Americans are identified as learning disabled in significantly higher numbers than majority students and white students. My question is how would adequate funding - back to the issue of resources in special education - prevent the potential over-identification of minorities, particularly as it relates to the subject that we were talking about today, and that is early intervention and early development programs?

Mr. Lorton. I think Dr. Carnine probably can answer this question better than I, because it does get at the root of the procedures, the instruments, and the diagnostic tools that we use to get at that, or try to get at that.

Mr. Grijalva. Assuming those tools are in place, assuming the discussion the doctor had was a model that was being applied, my question relates to the issue of funding, and how would your

school district be able to be more effective in terms of dealing with that issue of over-identification.

Mr. Lorton. Well, if we had those dollars, we would turn them right around and put them into prevention programs, interventions and support programs, at the earliest ages that we possibly could do that.

Mr. Grijalva. Thank you. A related question, Dr. Lorton, and that has to do with the - and I am sure you're familiar with it - the recent issue of clarification of Medicaid reimbursement for school districts. And as you talked about the great things you have done with the resources in your school district - and it is outstanding - how would this clarification affect Caroline County school district?

Mr. Lorton. Well, I think it would be a plus. It would be an absolute plus. The short answer is that it would be another area of clarity that I think would be good for schools throughout America.

Mr. Grijalva. Thank you. And one last, if I may, Mr. Chairman. As we were talking - and this is directed to Ms. Brown - and I appreciate your testimony very much. As we are talking about uniformity, guidelines, and regulations that have a more uniform content to them, because it will help children, a specific concern I have with language minority children and culturally-diverse children, children from different cultures, as it comes to assessment, evaluation, parent involvement, and staffing, quite frankly, that has always been an area in special education that has required local school districts to put a considerable amount of energy and time - in many instances, catch-up time.

My question is as we look at uniformity and clarity in terms of the regulations that go to state, would you encourage this committee that in those two particular areas there be some development of that kind of uniformity?

Ms. Brown. We definitely need that. Right now, we have a referred test and place model for special education. Any time a child is referred, it is a cry for help from the teacher. If there were some specific information and guidelines, I think it would help all of us.

Mr. Grijalva. As it relates to language minority kids?

Ms. Brown. Yes. And that is one of the reasons and the areas of over-identification.

Mr. Grijalva. Thank you. Thank you, Mr. Chairman.

Chairman Castle. Thank you, Mr. Grijalva. Mr. Van Hollen.

Mr. Van Hollen. Thank you, Mr. Chairman. Thank you all for being here. And a special thanks to Dr. Lorton, a fellow Marylander, for being here, and thank you for your work in Somerset County. I am also pleased that, you know, last year the State of Maryland did enact a historic education reform package, including a huge increase in investment and funding, and I hope that that will help your efforts in Somerset County, as well as other areas around the state.

I also want to welcome Congressman Wilson as a new recruit to the Montgomery County school system. We are lucky to have him. And I see we have the chairman of the Montgomery County Board of Education with us in the audience, and I want to welcome Mr. Richard Felton.

I first want to just associate myself with the comments for full funding and full mandatory funding, sooner rather than later. I think we need to develop a schedule of funding that will help us to reach our target in a relatively short period of time. I think it is a matter of priorities, and I think that our priorities should be on the side of meeting our commitments in that area.

I had a question, Dr. Carnine, because I think there is a general consensus that early education and early intervention is important. It is important for kids who end up where we identify special eds, or kids who are not identified as special eds, to get an early start. And I noticed some examples you gave from the states.

But one area - and you mentioned four-year-olds - do you know of any state? There are some areas where this is done on a kind of ad hoc basis. I know, for example, in some parts of Maryland, there are some counties that are trying to work with child care centers and other centers before they get into school to identify these kids earlier on.

But is there any state or any model you know of right now in place that, on a systematic basis, sort of works to identify kids that may have that kind of disabilities, so we can provide for early intervention, before they get to kindergarten?

Mr. Carnine. There are some states through Part C, which was discussed earlier as being a very important program in IDEA, such as Connecticut. I believe it is doing an excellent job in comprehensively trying to get to these children at an early age. There are efforts of varying degrees in all the states, and that is the reason for Part C: incentive funding to go out and find these children and help them early.

One of the areas that I think is important is that we need to look at measures in young children, not for accountability, but for program improvement. The investment in prevention will pay off only if we get results.

Mr. Van Hollen. Right.

Mr. Carnine. The spending of the money is the first step, not the last step. In the area of early childhood education, there has been some research about unobtrusive, non-threatening measures to young children that will help give us this. I encourage the committee to allow the development of ways of finding out if children are actually benefiting so our prevention investment does pay off.

Mr. Van Hollen. Let me ask you this, and maybe the other panel - how important do you think all - day kindergarten is to having the time and resources available to provide both the reading that is important to all kids, and also for the identification process, at an early stage?

Mr. Carnine. I think the more severe the deficit, or the more the child is behind, the more instruction is needed to move that child up to grade level. Therefore, when you are talking about

at-risk kids, full-day kindergarten, where they use the time well, can be very advantageous.

Mr. Van Hollen. And Dr. Lorton, has your experience been that that it has been a very important factor? I noticed you have - I commend your county for doing that on its own, you know, without state resources to support that all-day kindergarten. Has that been an important factor?

Mr. Lorton. Congressman, we have no doubt that it is an important factor. But the reality is that we cannot isolate that particular variable with the results that we get from our children on assessments. We just have not been able, from a pure research point of view, put out a document, a spread sheet, or a chart of some sort and identify exactly what contribution all-day Kindergarten has made. But the fact that we do as well as we do, and we are one of the only school systems with all-day Kindergarten, you have to conclude logically that it does have an impact.

Mr. Van Hollen. And finally, and as the chairman mentioned, although we have not come near to full funding, there has been an increase over the last number of years of special education. You talk to some people in our communities, and they say they really have not seen the impact of those additional funds in terms of improving the situation in special education. I would be interested in any of your comments on that.

In other words, we have made an increase in the past, but we want to make an increase. But have we really seen the improvements that we would expect to see as a result of that increase?

Ms. Brown. I think there have been some improvements. But what people probably do not see is because of paperwork and the adversarial nature. All they hear about are the negatives. There have been a number of improvements. But looking at it across the board, what the public hears about is their friends and other peoples' comments on the inordinate amount of time that they have to spend to get their jobs done.

Mr. Van Hollen. Thank you, Mr. Chairman.

Chairman Castle. Thank you, Mr. Van Hollen. We apparently are going to have votes on the floor pretty soon, so we are going to bring this hearing to closure.

I just have one observation. Something Mr. Van Hollen said triggered something that I am concerned about, and that is this whole business of increased funding for IDEA. It is clear that Congress is on a path to try to get this to 40 percent. We are going to have to struggle about how to make it mandatory, how fast we can do it, and all those things, simply because of the press of dollars. But, it seems evident that the political support is heavily there to get that done in this legislation.

In IDEA in general, there is a maintenance of effort provision in terms of what particularly states and localities are doing. A lot of people come in and say, ``We want more money from the federal government,'' thinking there is going to be more money in IDEA. Well, there is, if the state and local contributions remain the same.

I have this sneaky suspicion that as we look at the districts around the country - what, 14,500, did you say? Whatever it may be. In districts around the country, there is some slippage in terms of the dollars that get down to these programs. Different games can be played sometimes with how dollars get to it.

So I hope that not just the witnesses here, but everybody in this room who are concerned about children with disabilities, would pay a lot of attention to that to make sure that that money is being channeled properly into that area. It is important, and I think we all recognize the need for that.

We have, then, no further business. If Ms. Woolsey wishes to say anything, she certainly may, and then we will bring it to closure.

Ms. Woolsey. Thank you, Mr. Chairman. I want to compliment you. What a great panel. I mean, you balanced each other. We learned something different from each of you. Thank you so very, very much.

Something I think we must remember when we're talking about prevention is prenatal care and services. WIC programs, substance abuse prevention and treatment. That all plays into this IDEA and the special needs kids. So thank you for caring about the whole child and about children in general. Thank you very much.

Chairman Castle. Let me also express my thanks to the panel. I thought you were very incisive, individually and collectively, and blended well together in contributing to helping us develop this legislation. We do appreciate your being here. We know it is a sacrifice of time in your own schedules to be able to share your thoughts with us, and we do appreciate that. So we thank you.

And with that, we stand adjourned.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

APPENDIX A – WRITTEN OPENING STATEMENT OF CHAIRMAN MICHAEL N. CASTLE, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

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Opening Statement
of
Chairman Michael N. Castle
Subcommittee on Education Reform
Committee on Education and the Workforce
Thursday, March 13, 2003
9:30 AM
2175 Rayburn House Office Building
"IDEA: Focusing on Improving Results for Children with Disabilities"

Good morning. I am pleased to welcome our guests, witnesses, and members to this morning's Education Reform subcommittee hearing. We are looking forward to your comments and the recommendations that you will provide on improving the Individuals with Disabilities Education Act (also known as IDEA).

This landmark legislation has played a vital role in ensuring that children with special needs receive the high-quality education they deserve. For much of our nation's history, children with disabilities were denied access to public education. However, with the passage of the Individuals with Disabilities Education Act in 1975, the doors of educational opportunity were opened. Schools now provide students with disabilities a free and appropriate public education in the least restrictive environment. According to the Department of Education, about 6 million students currently participate in these programs across the nation. Today, more than ever, students with disabilities have an opportunity to accomplish their goals.

Although IDEA has had many success stories, there is still room for improvement in serving children with disabilities. Children with disabilities are still among those at greatest risk of being left behind. No longer is it simply enough to provide our children with disabilities access to public schools. Now more than ever, we must see that children with disabilities are given access to an education that maximizes their unique abilities and provides them with the tools for later success. We must be vigilant in our efforts towards improving their quality of education by focusing on better education results, reducing the paperwork burden for special education teachers, and addressing the problem of over identification of minority students as disabled.

One of the great benefits of No Child Left Behind is that we have raised expectations and will hold school districts accountable for the annual progress of all their

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students, including students with disabilities. Although we have made great progress in including students with disabilities in the regular classroom, we now must make equally great progress in ensuring that they receive a quality education in the regular classroom.

The excessive amount of paperwork, currently inherent in special education, continues to overwhelm and burden teachers, robbing them of time to educate their students. This must be reduced in order to retain and recruit highly qualified special education teachers. Teachers must have the ability to spend more time in the classroom rather than spending countless hours filling out forms that don't lead to a better education for students. We remain committed to implementing common sense reforms that reduce this burden and provide relief to educators.

Minorities are often significantly over represented in special education programs. African Americans are nearly three times more likely to be labeled as mentally retarded, and almost twice as likely to be labeled emotionally disturbed. Current methods of identifying children with disabilities lack validity or reliability. As a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

We remain committed to build upon reforms already implemented and must keep these challenges in mind as we reauthorize IDEA. Your testimony is vital to that task, and we look forward to hearing from each of you today.

With that, I yield to my colleague from California, Mrs. Woolsey.

APPENDIX B – WRITTEN OPENING STATEMENT OF RANKING MEMBER LYNN C. WOOLSEY, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Rep. Lynn Woolsey, Ranking Member
Subcommittee on Education Reform
Opening Statement
March 13, 2002

THANK YOU, MR. CHAIRMAN.

I'M GLAD TO BE GETTING STARTED WITH THE WORK OF REAUTHORIZING IDEA.

WHENEVER I TALK TO EDUCATORS OR SCHOOL ADMINISTRATORS IN MY DISTRICT, THE FIRST THING THEY BRING UP IS IDEA.

AND THE FIRST THING THEY BRING UP ABOUT IDEA IS FUNDING.

FOR INSTANCE, IF THE FEDERAL GOVERNMENT FULLY FUNDED ITS SHARE OF IDEA, SCHOOLS IN SONOMA COUNTY, IN MY CONGRESSIONAL DISTRICT, WOULD HAVE RECEIVED ALMOST $20 MILLION DOLLARS TO HELP THEM EDUCATE STUDENTS WITH DISABILITIES. INSTEAD, SONOMA COUNTY SCHOOLS RECEIVED JUST UNDER $6 MILLION DOLLARS, OR ABOUT 15 PERCENT OF THEIR COSTS.

ALMOST EVERY SCHOOL DISTRICT IN THE COUNTRY COULD TELL A SIMILAR STORY.

IN 2003, THE AVERAGE COST OF EDUCATING A CHILD WITH A DISABILITY IS EXPECTED TO BE $7,402 DOLLARS PER CHILD.

IF THE FEDERAL GOVERNMENT WOULD CONTRIBUTE THE FORTY PERCENT OF THE AVERAGE PER PUPIL EXPENDITURE THAT WAS AUTHORIZED IN THE ORGINAL IDEA ACT, SCHOOLS SHOULD RECEIVE $19.5 BILLION DOLLARS IN FEDERAL FUNDS TO HELP THEM PAY FOR THE COST OF EDUCATING THE MORE THAN SIX HUNDRED THOUSAND STUDENTS THEY WILL SERVE UNDER IDEA THIS YEAR.

AS WE ALL KNOW, HOWEVER, SCHOOLS WILL RECEIVE FAR LESS. THIS YEAR SCHOOLS ARE RECEIVING $8.9 BILLION DOLLARS FROM THE FEDERAL GOVERNMENT, OR ABOUT EIGHTEEN PERCENT OF THE AVERAGE PER PUPIL EXPENDITURE.

CONGRESS CANNOT LET THIS CONTINUE.

SPECIAL EDUCATION COSTS FOR LOCAL SCHOOL DISTRICTS ARE RISING SIGNIFICANTLY FASTER THAN FEDERAL SPENDING FOR IDEA. IF CONGRESS HAD FULLY FUNDED IDEA WHEN WE FIRST PASSED THE ACT IN 1975, OUR STATE AND LOCALS WOULD HAVE HAD OVER THREE BILLION ADDITIONAL DOLLARS TO SPEND ON OTHER EDUCATION NEEDS.

JUST THINK WHAT YOUR SCHOOLS COULD BE DOING WITH THEIR SHARE OF THREE BILLION DOLLARS – TEACHERS' SALARIES COULD BE INCREASED; CLASS SIZE COULD BE REDUCED; SCHOOLS COULD HAVE BEEN BUILT OR RENOVATED, COMPUTER SYSTEMS PURCHASED.

EVEN THOUGH FEDERAL FUNDING FOR IDEA HAS BEEN INCREASING, IT IS STILL MORE THAN TEN BILLION DOLLARS SHORT OF FULL FUNDING THIS YEAR.

IF CONGRESS CONTINUES INCREASING FUNDS FOR IDEA AT THIS RATE, IT WILL BE THE YEAR 2035 BEFORE THE FEDERAL SHARE OF IDEA IS FULLY FUNDED.

OUR SCHOOL CHILDREN, BOTH THOSE WITH DISABILITIES AND THOSE WITHOUT, CAN'T WAIT THIRTY-TWO YEARS FOR THIS FUNDING.

WE SHOULD USE THIS REAUTHORIZATION TO MOVE IDEA PART B FUNDING FROM DISCRETIONARY TO MANDATORY, WITH A GRADUAL PHASE-IN OF FULL FUNDING. AND, WE SHOULD INSIST THROUGH LAWTHAT THE STATE AND LOCAL FUNDS THAT ARE FREED UP WITH INCREASED FEDERAL SPENDING ARE RESERVED FOR EDUCATIONAL USES APPROVED UNDER ESEA.

THERE ARE CERTAINLY OTHER ISSUES THAT WE NEED TO BE LOOKING AT AS WE REAUTHORIZE IDEA AND I AM LOOKING FORWARD TO HEARING ABOUT SOME OF THEM FROM THE PANEL TODAY.

BUT, THE BOTTOM LINE IS THAT UNLESS FEDERAL GOVERNMENT STEPS UP TO ITS RESPONSIBILITY TO FULLY FUND ITS SHARE OF IDEA, PARENTS WILL BE PITTED AGAINST EACH OTHER, KIDS WITH SPECIAL NEEDS WILL BE RESENTED AND SCHOOLS WILL BE UNABLE TO MAKE IMPROVEMENTS IN IDEA OR ANY EDUCATION PROGRAMS.

APPENDIX C - WRITTEN STATEMENT OF DIANNE TALARICO, SUPERINTENDENT, CANTON CITY SCHOOL DISTRICT, CANTON, OHIO.

Testimony of Dianne Talarico, Superintendent
Canton City School District
Canton, Ohio

Before the Subcommittee on Education Reform
Committee of Education and the Workforce
U.S. House of Representatives
Washington, D.C.

March 13, 2003

IDEA: Focusing on Improving Results for Children with Disabilities

Good morning Chairman Castle, ranking member Woolsey, and members of the Subcommittee on Education Reform. I am honored to have the opportunity to testify before you today. As Superintendent of the Canton City School District in Canton, Ohio, and as a former special education teacher, principal, and Associate Superintendent in the San Francisco Unified School District, I have firsthand experiences implementing the Individuals with Disabilities Education Act and am keenly aware of the outcomes it produces for students with disabilities.

I am also a member of the Ohio 8 Coalition, a strategic alliance of superintendents and teacher union presidents from the 8 largest cities in Ohio. William Seigferth, President of Akron Education Association is here with me today.

In my view, all children belong to all of us. Prior to becoming special education students, they were general education students first! Students in special education are simply general education students receiving specialized support.

I want to commend the Members of this Subcommittee, the full Committee and others in the Congress who sent this message loud and clear in The No Child Left Behind Act. That law has the potential to have an enormous positive impact on the education of students with disabilities because it includes all students with disabilities in the expectation that they meet high standards and are a part of every aspect of the accountability systems we develop. I believe the success of the No Child Left Behind Act and the reauthorization of IDEA are intricately woven together. The reauthorization of IDEA offers a tremendous opportunity to further flesh out these high expectations for students with disabilities and thus increase academic achievement, graduation rates, post-school employment, and participation in post-secondary school for students with disabilities.

There are three key recommendations regarding the reauthorization of IDEA that I would like to make today.

First, provide state and local school systems with the opportunity to expand and intensify preventive pre-referral intervention services for students who are floundering.

Too often students are referred to special education because they are not succeeding in the general education setting and they need extra support or intensified instruction. While they do not need special education, they are referred there anyway. Frankly, too many general educators are not skilled in meeting a diverse range of student learning needs, so they are eager to "dump" students out of their classes and off of their rosters so they are not responsible for them.

We need to change this. Students who experience difficulty learning how to read or have behavioral challenges need immediate intensive support services and interventions. We need the flexibility to design and deliver those services in a manner that does not require extensive eligibility determination and assessment. Every school and every teacher knows pretty quickly when students are not succeeding. When we have the flexibility to respond with added personnel, intensified instruction or other interventions, we can reduce the number of students we refer to special education.

This is particularly true of students with learning disabilities and emotional disturbance who are too quickly rejected by general educators. We know that over half of those we serve in special education are students with learning and behavioral challenges.

IDEA could allow us to use a portion of the funding we receive in a flexible manner to serve students BEFORE they are formally referred to special education. We have already begun this type of pre-referral intervention program in Canton. We respond quickly to students who are having learning and behavior problems in order to meet their needs and reduce the number of students we serve in special education. The support of federal funds would make an important difference to us in further developing this initiative.

Second, I recommend that all high-risk children be provided with high quality early childhood interventions.

Recent research shows that a lack of kindergarten readiness is the single, most significant reason for the achievement gap between children of poverty and their higher socioeconomic counterparts. We need to ensure that the early intervention program under IDEA, Part C, reach as many children as possible. Right now, it is not reaching all the infants and toddlers it needs to be reaching. For children at highest risk, interventions should include family support, health services, and sustained, high quality care/cognitive stimulation from birth. The more students we reach effectively when they are young, the fewer students we will be serving later in special education. The IDEA reauthorization should strengthen Part C to ensure that we are casting a broad net. This is the program where we should seek to serve as many youngsters as possible, thus reducing our likelihood of needing to provide more intensive and costly services as they get older.

Expanded early intervention services will help us to turn around the situation we are faced with now in many urban centers where special education has become a place to segregate students who learn differently. Not all students learn the same way and at the same pace, but this does not mean they are disabled. Too often, special education is a place where children of poverty and children of color with lesser opportunities for school readiness than their higher socioeconomic counterparts can be isolated. Students in urban settings, where we have high proportions of students of color and poverty, are too frequently the children that we have failed to teach or failed to teach well.

My third recommendation is to dramatically enhance and expand personnel preparation and personnel development for educators. I cannot over-emphasize this point. Good intentions and good policy are not enough. The achievement and success that we produce for students is a direct correlate to the skill of the educators who serve them every day. Every challenge that we face in implementing IDEA -- whether it is behavior management, effective reading instruction, over-identification of minority students, excessive paperwork, and unnecessary conflict -- is related to a lack of highly skilled personnel.

The shortage of fully qualified special education teachers is the worst teacher shortage in the country and only growing. We cannot continue to place unqualified people in classrooms to teach special education students and expect to achieve the expectations we have set in No Child Left Behind.

General educators are not knowledgeable about the diversity of student learning styles, effective intervention strategies, adapting and modifying the core curriculum and cultural diversity.

Too often principals do not have the special education training they need in order to be effective. Principals are critical to the effectiveness of our efforts to educate students with disabilities. The principal sets the tone in the individual schoolhouse. She/He must take full responsibility for all students entrusted in his or her care. As the instructional leader, she needs to be cognizant of special education laws and practices and ensure that all faculty members share a sense of responsibility and commitment to the success of all the students served in the school.

IDEA should expand professional development support for school districts and universities to train general education teachers and administrators with new skill sets to address the needs of diverse learners. They need both pre-service and on-going professional development to prepare them to meet the needs of diverse learners. Mastery involves strong initial teacher and administrator education and continuous staff development throughout the career. The one-shot workshop approach that is all too often prevalent is not an effective training approach.

I recommend that you consider authorizing a national advisory panel to study programs that train educators in general, special, and gifted education – both pre-service and professional development -- and make recommendations about how to ensure that all educators have the skills they need to be successful in educating students with disabilities. Our universities and our school districts need to work together to better integrate the pre-service and on-going professional development that is offered. Educators should know current literature and research on child and adolescent learning and development, as well as successful assessment, instruction and intervention strategies for atypical learners and students with gifts and learning differences.

Teachers must know how to deliver culturally responsive instruction. They must know how to adapt and modify the core curriculum within the realm of the adopted curricular standards. They must be effective data collectors so they can monitor both short and long term progress, i.e. curriculum based measurement.

In closing, I want to make sure I offer my support to the recommendations the Committee has received from the Council of Great City Schools regarding streamlining the IEP process and reducing the paperwork demands on teachers and schools. In addition, though you must assume from my statement that relinquishing responsibility to educate any student—regardless of the challenges they pose to a district—is something I could not support. The area of discipline for students in special education—particularly those with serious emotional and behavioral disabilities, is a daily challenge for many school administrators. We need more and better alternatives to the traditional schoolhouse for some children. In other words, we need to do a better job finding effective ways to accommodate and to teach the students who offer us the greatest challenges. We can not simply turn them away.

Mr. Chairman and members of the Committee, I would like to thank you for your leadership in ensuring that students with disabilities are general education students first! I would be pleased to answer any questions you may have.

APPENDIX D – WRITTEN STATEMENT OF HARRIET P. BROWN, DIRECTOR, ESE POLICY AND PROCEDURES, ORLANDO, FLORIDA.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND THE WORKFORCE
SUBCOMMITTEE ON EDUCATION REFORM
HEARING ON "IDEA: FOCUSING ON IMPROVING RESULTS FOR CHILDREN WITH DISABILITIES"
TESTIMONY OF HARRIET P. BROWN, ORLANDO, FLORIDA
MARCH 13, 2003

Thank you Chairman Castle, Congressman Keller and other members of the committee for the opportunity to present the viewpoint of an advocate for children who has worked for over thirty years in the disability community in various settings. I am especially pleased to give you the perspective of a school district administrator in one of the best urban school districts in the nation – the Orange County Public Schools. Both of my parents were educators and I grew up in an environment where education was the focus.

I began my special education career as a college student in Virginia. After college, I spent one semester as a speech therapist in the schools in Jackson County, FL. After graduate school, I worked for twelve years in the Chicago Public Schools as a speech-language pathologist. My interest in the law was sparked during this period. I participated in many IEP meetings watching parents, advocates and attorneys often make unreasonable demands on the school district staff. Their choices were many times contrary to the needs of the child and sometimes parents were simply bystanders in the process.

During my law school career, I worked for the Protection and Advocacy system in Louisiana. I worked on many school cases for students with disabilities. My first job after law school was with the Protection and Advocacy system in Florida. I worked initially as an advocate in Tallahassee and later became the supervising attorney for the Orlando office. I represented parents in numerous school districts in the state. The majority of my cases were resolved through advocacy at meetings. Parents contacted us primarily because they did not understand the process.

I have worked for ten years with the Orange County school district as the representative in due process hearings and have served as the contact person for complaints with the school district, Florida Department of Education (DOE) including mediations and the Office for Civil Rights (OCR). I have conducted trainings on discipline, compliance, Section 504 accommodations and modifications, Extended School Year, Least Restrictive Environment and Individual Education Plans and all components of special education.

Due to these varied experiences, I have had the pleasure of observing the process from several vantage points – public school employee, private service provider, advocate and attorney. The procedural requirements of the IDEA have caused much concern from all sectors since the major changes of the 1980's. Extensive paperwork is nothing new to the school personnel who must implement the IDEA. However, the changes from IDEA '97 have left us with a burdensome, time consuming process that takes away precious instructional time from students.

School personnel must work after hours and at home just to keep up with the minimal requirements. Documentation is necessary, but, there are many redundant requirements that cause even the most dedicated person to omit essential elements. Even with the best efforts, it is difficult to follow all of the procedures. Teachers and school staff are wonderful people and committed to their work. They are often judged harshly whenever they attempt to share concerns about the time-constraints and paperwork burden. School staff often prefer not to voice their

opinions about these issues for fear of being portrayed as unsympathetic or uncaring for the needs of students. It is because of this care and concern that we embrace any actions that will help alleviate unnecessary procedures, requirements and regulations. This will allow more time to concentrate on the purpose of the law – helping students achieve to their full potential.

The IDEA regulations went into effect on March 12, 1999, yet, states continue to grapple with revisions to state statutes to fully implement the IDEA. We must begin to process to revise the paperwork requirements to improve the amount and quality of instruction for students with disabilities. There are several actions that will have a positive impact for students, parents and school personnel working to implement the IDEA mandates. I humbly request that you consider the following course of action:

1) Mandate a model state IEP form. Each state should be required to develop a statewide IEP based on that state's standards. This will allow movement of students between local educational agencies (LEAs) in a state without the need for extensive IEP development. Since the state DOE is responsible for monitoring compliance, it seems feasible that a consistent IEP document would help school districts determine areas of non-compliance. In IDEA '97, states were required to develop a model form for due process hearing requests. This action greatly helped parents understand the process. A model IEP should have the same result.
2) Eliminate short-term objectives. With the new mandates of the No Child Left Behind Act, there is a heightened awareness of standards for all students. Coupling that with the IDEA's existing mandate for participation in the general curriculum for students with disabilities, annual goals based on the state's standards for achievement will offer a clear correlation for instruction and transition beyond the school years. The current requirement for short-term objectives dictates the length of the IEP. Parents appear more comfortable with short-term objectives because they are easy to understand. Annual goals can serve the same purpose and provide more flexibility for learning. [20 U.S.C. 1414(d)(1) (A)]
3) Change the IEP development and content requirements. There should be an IEP revision process that will allow simple changes without the development of a new IEP. IEP Team members could then make changes that will lead to shorter meetings and less paperwork. Without this change, parents and advocates will continue to demand that staff duplicate paperwork by writing the same items on new forms because it is in the law. Adhering to each content requirement in an IEP Team meeting wastes time and energy that could go to instruction. [20 U.S.C. 1414(d)(1)(A)]
4) Change the IEP Team composition requirements. Parent participation is a must but the requirement for the parent's presence should be reviewed. There should be input from the regular education teacher and optional attendance where appropriate. Parents sometime request the presence of all teachers at an IEP Team meeting. This practice increases the demands for compensatory education because of forfeited instructional time. The average IEP Team meeting is between 2-3 hours. School districts should be allowed to provide written input from teachers for this purpose. For routine meetings, a special education teacher, the LEA representative and the parent should comprise the team.

5) Eliminate the triennial reevaluation process. Since IDEA '97, parents have been more informed about their children's progress than ever before in special education. This was one of the many positive outcomes of the previous reauthorization. Each time a teacher or service provider prepares for progress reporting, a mini-evaluation occurs. A reevaluation should only occur when there is a documented area of specific need, i.e. change in physical or mental condition of the child. Routine reevaluations are very costly for school districts and the results rarely yield significant information. Parents should be limited to one reevaluation request in a three year period. [20 U.S.C. 1414(a)(2)]

6) Eliminate the requirement to provide procedural safeguards and prior notices for each meeting. Parents should receive the entire procedural safeguards prior to consent for evaluation, at the meeting for disability determination and upon filing a due process hearing request. A summary of the procedural safeguards should suffice in all other situations. This is an unnecessary paperwork requirement and most parents concur.

7) Allow placements of identified students without parental consent. School districts need the authority to place students in appropriate settings when all efforts have been exhausted to promote parent participation. This will not alter the right to file due process, however, districts are often held hostage by parents who have revoked consent for placement when the student has significant educational needs.

8) Establish a statute of limitations to file an IDEA claim. This would align the IDEA with other federal statutes and allow for timely resolution of issues. School districts are often blind-sided by claims from parents involving issues that occurred in an elementary school program when the child may currently be a high school student. If a time period were established, school districts could work to proactively resolve the concern. Parents and advocates often wait to bring actions many years after discovering a concern. The child's education is usually jeopardized by this strategy. A set time period would also alleviate unnecessary claims for compensatory education.

9) Establish a resolution period prior to filing due process. For example, a 20-30 day period could be set aside for mediation and informal methods to rectify the issues. This will allow the school district to work with parents before engaging legal counsel when often the issues, once clarified, can be resolved.

10) Establish time limits for meetings. Paperwork is impacted without a time limit because documentation of the actions can be lengthy when the same items are discussed repeatedly. Parents and advocates often feel that the meeting belongs to them and that school staff must adhere to their guidelines. Without some recognition of the time constraint process, meetings will continue to last 4-6 hours because school personnel feel they have no control over the process.

School district personnel are committed to helping students with disabilities achieve their goals by providing opportunities for transition to meaningful citizenship. We want what parents and advocates want – measurable outcomes based on appropriate goals and specialized instruction that fosters progress in the general curriculum. We need to return to the spirit of the law by focusing on teaching and learning while we help students with disabilities achieve. This is our higher calling and our challenge.

APPENDIX E – WRITTEN STATEMENT OF DOUGLAS CARNINE, DIRECTOR AND PROFESSOR, NATIONAL CENTER TO IMPROVE THE TOOLS OF EDUCATORS, UNIVERSITY OF OREGON.

Testimony of Dr. Douglas Carnine
"IDEA: Focusing on Improving Results for Children with Disabilities"
Hearing before the
Subcommittee on Education Reform
Committee on Education and the Workforce
United States House of Representatives
March 13, 2003

Good Morning Chairman Castle, Congresswoman Woolsey and Members of the Committee. I am honored to be here and would like to thank you for the opportunity to appear before you and discuss the reauthorization of the Individuals with Disabilities Education Act (IDEA). I am Doug Carnine, director of the National Center to Improve the Tools of Educators and a professor at the University of Oregon. Today, I would like to discuss with the Committee the topic of specific learning disabilities and appropriate methods of identifying children with these disabilities.

What We Know
First, let me start by saying that learning disabilities (LD) are real. Today, 2.9 million students are diagnosed with LD and receive special education services in our schools. Learning disabilities require early and accurate identification and effective intervention if students with LD are to succeed in school and life; and, 80 percent of students with LD have problems in the area of reading. Learning disabilities have distinct characteristics and should not be confused with mental retardation, autism, deafness, blindness, or behavioral disorders. Twenty-seven percent of students identified with LD drop out of high school and only 14 percent of students with LD go on to seek a 2 or 4-year degree after high school. Low self-esteem is a common and debilitating consequence of LD. Undetected or untreated, LD impairs 50-80 percent of adults with severe literacy problems.

Yet, unlike many other disabilities, learning disabilities are difficult to diagnose. A learning disability, as defined in statute, is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. However, since these are neurological disorders that affect how the brain processes information, we cannot rely on a medical model: there are no x-rays, CAT scans, MRI's, or PET scans that definitively show that a child has a learning disability.

The Current Approach to Identifying Students with SLD
Under the current IDEA regulations, the discrepancy formula is the basis for determining when a child will be eligible for special education services under the category of specific learning disability (SLD). The formula makes eligibility for services dependent on a discrepancy between an Intelligence Quotient (IQ) in the normal range and an achievement level that is generally two or more years below grade level. Once a discrepancy is established, the student can be eligible for special education services as a child with a specific learning disability. It is well known from a large number of studies that the scientific basis for IQ-discrepancy is weak.

Discrepancy does not predict intervention outcomes or prognosis, is not related to genetic factors in LD, and is not associated with a unique profile in brain imaging studies. But the major problem is that most students have to reach third grade before the IQ-achievement test can show performance two years below grade level. The IQ-achievement discrepancy formula forces children to fail for several years before they are eligible for services. It is because of the typical requirement to have a two year achievement gap that there are almost three times more students currently receiving special

education services at ages 9-11 than at ages 6-8. The children at ages 9 to 11 do not "catch" a disability when they are older--rather they have had to accumulate enough failure to demonstrate the discrepancy.

Early Reading: A Predictor of Students Most At Risk for SLD

Reading is a strong example and area of concern for as many as 80% of the students with a learning disability. We can predict as early as January of the kindergarten year which children will have difficulty learning to read, a known risk factor in children who are found to have learning disabilities. Numerous studies have shown that scientifically-based methods for teaching reading can reduce or even prevent the failure. But with the IQ-achievement discrepancy formula as a criterion, this kindergarten child might have to wait till third grade before being eligible for special education services.

For many children we can lessen the impact of a learning disability by providing early, scientifically-based interventions and by dismantling the artificial IQ-achievement barrier that denies help to students before they experience weeks, months and even years of frustration and failure. It is not surprising that longitudinal data from the National Institute of Child Health and Human Development (NICHD) show clearly that the majority of children who are poor readers at age nine or older never read at grade level with their peers and continue to have reading difficulties into adulthood. Not providing this instruction is a disservice not only to the child and the child's family but also to society as a whole.

When at-risk students are not identified early and failure is not prevented, remediation is used; students who fail in Kindergarten through 2nd grade and then receive remediation rarely reach grade level with their peers. And reading failure is associated with a vast array of undesirable social outcomes including incarceration, unemployment, substance abuse and dropping out of school. Many large-scale clinical trials in the substance abuse and behavior disorder research areas show that learning to read in 1st Grade is associated with a reduced risk for these types of difficulties that persist into adulthood.

Additionally, possible bias in IQ tests may be a contributing factor in the disproportionate representation of ethnically and culturally different students in special education. States vary widely in the percentage of minority students assigned to special education categories. And, while there is considerable variability in the rate at which states use the LD designation, there is clear evidence that overrepresentation of blacks and Hispanic students exists in the LD category in some states.

Doing away with IQ-achievement discrepancy formula has broad support from researchers, parents and advocates. Replacing this inappropriate criterion for eligibility, which does not yield instructionally useful data, is the ethical thing to do.

IQ-Achievement Should Not Be Used to Determine Eligibility for SLD

In August 2001, the Learning Disabilities Summit: Building a Foundation for the Future was held in Washington, DC. This Summit was a part of a national initiative sponsored by the Office of Special Education Programs (OSEP) of the U.S. Department of Education. In the final regulations for IDEA 1997, OSEP stated, " the Department plans to carefully review research findings, expert opinion, and practical knowledge over the next several years to determine whether changes should be proposed to the procedures for evaluating children suspected of having a specific learning disability (3/12/99)."

The LD Summit provided an opportunity for stakeholders to hear and respond to findings from a series of white papers regarding learning disabilities. OSEP sponsored the initiative to prepare for the reauthorization IDEA, as well as the implementation of the *No Child Left Behind Act*. Researchers and policy organizations concerned about individuals with SLD participated to review the major issues in the field and develop statements of consensus on what is valued and should be promoted to improve programs for the students currently served in this category of IDEA. As a result, the publication of the white papers prepared for the LD Initiative is now available for purchase. The book is titled, *Identification of Learning Disabilities: Research to Practice.*

In order to build on the LD Summit process, OSEP also sponsored The Learning Disability Roundtable, which brought a group of ten educational and advocacy organizations that represent children served through IDEA together to propose improvements to better identify and serve students with learning disabilities. Coordinated by the National Center for Learning Disabilities, the Learning Disabilities Roundtable convened on October 1, 2001, February 4 -5, 2002 and June 17-18, 2002 in Washington, D.C. The report, *Specific Learning Disabilities: Finding Common Ground* was submitted to OSEP in July 2002 which included the following key consensus statements:

Eligibility—

- The achievement-discrepancy formula should not be used for determining eligibility.
- Decisions on eligibility must be made through an interdisciplinary team, using informed clinical judgments, directed by relevant data, and based on student needs and strengths.

Identification—

- Should include a student-centered, comprehensive evaluation and problem-solving approach that ensures students who have a specific learning disability are efficiently identified.
- General education must assume active responsibility for delivery of high quality instruction, research-based interventions, and prompt identification of individuals at risk while collaborating with special education and related services personnel.

Intervention—

- Schools and educators must have access to information about scientifically based practices and promising practices that have been validated in the settings where they are to be implemented.
- Students with SLD require intensive, iterative (recursive), explicit scientifically based instruction that is monitored on an on-going basis to achieve academic success.
- Interventions must be timely and matched to the specific learning and behavioral needs of the student.
- An intervention is most effective when it is implemented consistently, with fidelity to its design, and at a sufficient level of intensity and duration.
- General and special education must be coordinated as part of a coherent system which is held accountable for the educational outcomes of students with SLD.
- The field should continue to advocate for the use of scientifically based practices. However in areas where an adequate research base does not exist, data should be gathered on the success of promising practices.

Professional Development—

- The content of professional development must address the knowledge, skills, and attitudes needed to increase staff and school capacity to implement effective interventions for diverse learners.

- Professional development must be structured to fit the way adults acquire knowledge, skills, and attitudes.
- An on going, coherent, integrated system of pre-service and in-service education must be provided.

A Better Approach to Identifying Students with SLD

Given the converging evidence and agreement in the field that we must do something better for our children, the following model is recommended as the basis to improve how we provide early intervention and determine: Response to Intervention Model (RTI).

A RTI model would be designed to ensure that children who are indicating a likelihood of failing in the early grades receive scientifically based instruction as soon as possible. The eligibility for special education services would focus on the children who, even with these services, are not able to be successful. The focus of RTI is on responding to the instructional challenges caused by the disability, not on giving tests to document the failure of the student. The model would include five major steps:

First. Determine criteria to be used beginning in Kindergarten to determine whether the child exhibits a significant difference between actual and expected rate of learning in one or more of the academic domains included in the definition of specific learning disabilities (oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematics calculation, and mathematics reasoning).

Second. Develop a plan to provide "research based intervention" defined as appropriate and effective scientifically-based instruction in reading, math, behavioral interventions and/or services for addressing limited English proficiency. Ensure that a qualified teacher teaches the child and that the teacher receives adequate training to fully implement the intervention. This process would be a joint responsibility of both regular and special education.

Third. Monitor the child's progress, documenting progress, or lack thereof; and regularly reporting this information to parents. One internet based system for this type of monitoring is available for a dollar per year per child. Almost 450,000 children are in this one system.

Fourth. In cases where the child is not progressing at a desired rate, determine if the intervention is being implemented with fidelity and if not, provide additional assistance to the teacher.

Fifth. Require that a lack of progress over a limited period of time leads to a child centered evaluation conducted by the team described in 5(b) of existing law. This process could lead to identification of the child as having a specific learning disability and to provision of special education services.

As compelling as the need is for early intervention for young children, we cannot make that case at the expense of older students, who have a unique and equally problematic set of issues. We cannot abandon them, nor should we compromise the availability of funding and other resources for them. Rigorous efforts at early identification and effective intervention must be accompanied by intensive, long-term, research-based instruction for students whose reading or other academic difficulties are due to their learning disability. For most students with LD, the strategies they learn in elementary school for accessing the curriculum and managing their disability are not sufficient to meet the increasing demands and complexity of the middle and secondary school curriculum.

Congressional Support for RTI

The *No Child Left Behind Act* (NCLB) passed last year creates a strong incentive for schools to support a response to intervention approach to identifying and serving students with learning disabilities. For the first time in U.S. history all students with disabilities must be included in the state accountability system. IDEA 97 required that students with disabilities had to be assessed, but with NCLB, the scores of students with learning disabilities count for accountability. In fact a school could be deemed a failing school if the school does not enable children with learning disabilities to make AYP for two years. Inclusion in the accountability system should motivate schools to adopt pre-referral models that focuses on instruction, early intervention and building success rather than on testing to document failure. Models that focuses on prevention and success will not only benefit children with disabilities but the numerous other children who enter school with limited literacy and language knowledge and who, therefore, are at risk for failure.

Accountability for results with special education students combined with early intervention shows promising results. *The President's Commission on Excellence in Special Education* reported that "...when aggressive reading programs are implemented with accountability for results, LD identifications are reduced." They also commented on the identification process stating "...Children should not be identified for special education without documenting what methods have been used to facilitate the child's learning and adaptation to the general education classroom. ...In the absence of this documentation, the Commission finds that many children who are placed into special education are instructional casualties and not students with disabilities."

Research shows that after good reading instruction beginning in Kindergarten and 1st Grade, students continue to match the class average through 4th grade. In the Elk Grove school district in California, introduction of strong core reading programs reduced the number of students identified into special education from 13 percent to 9 percent. After Connecticut introduced a reading blueprint in 1999 that included early intervention and progress monitoring, an immediate and precipitous decline in identifications for special education was observed, attributed to the equally dramatic reduction in identifications for LD.

In these examples, many children who did not have a disability did not require special education services while other children with a disability received supports that led to reading success and avoided labeling. The student who needs the protection of special education is the student with disabilities who hasn't been able to learn at a reasonable rate and special education may be able to focus more intense and individualized efforts towards remediation. The common denominator for general and special education is continued emphasis on the monitoring of progress and results.

Moving to a response to intervention model can dramatically reduce the long-term failure that is often associated with the IQ-achievement discrepancy formula. 70 to 90 percent of the most at risk children in Kindergarten through 2nd grade can be brought to the average range with effective instruction. With the most intensive instruction, the failure rate can be reduced to about 2 percent.

RTI In Action

Instruction focused models have been put into practice by a growing number of districts and schools over the last several years. The positive aspects include: helping reduce the number of students identified late; ensuring the problem is not due to poor instruction; helping reduce the number of disproportionate referrals; relying on data to inform instruction; and, requiring special education services when student does not respond to intervention. We also know that:

1. In no case has implementation had a negative impact upon students and staff;
2. In most cases it has resulted in modest gains for students, and improved communication among parents, educators and administrative personnel;
3. In most cases the approaches have enabled teachers to take better charge of their students' progress and has:
   - built staff morale and shared responsibility for student learning
   - informed and improved professional development efforts, and
   - reallocated limited professional staff time for the benefit of ALL students (vs. spending the vast majority of their time doing testing and going to meetings).

Consider the following:
Long Beach, CA Unified School District – The State of California does not allow the use of IQ-Achievement testing as a criterion for determining eligibility for special education. Long Beach has employed a process that focuses on instruction, rather than testing. The district -- 90,000 students and growing--enjoys one of the lowest rates of students enrolled in special education in the country after implementing a system that prides itself in melding services and efforts to meet the needs of all students, including those most likely to require special education services. The success of the model emphasizes team approaches of general education and special education teachers working together to help all struggling students.

Students referred for special education are not automatically tested. Rather interventions are implemented first. The resistance to robust interventions is what is used to decide whether eligibility testing should occur. Resource Room teachers work with both students on Individual Education Program (IEP) and at-risk students. Principals are beginning to take ownership for students with disabilities due to the refreshing approach of standards-based classrooms for all teachers including teachers of special needs students. The district has also established co-enrolled preschool classes to provide least restrictive environment (LRE) for these students and ensure early intervention occurs as soon as possible.

Horry County, SC – Horry County has seen the amount of time devoted to special education testing shrink from 32.5 hours per child/per year to 2 hours per child/per year, just on evaluations alone. The new instruction based model has allowed professionals to devote 41 more hours/child of time to hands-on instruction and interventions. During the second year of operation, 77 percent of students experienced success with the interventions and were not referred for a special education evaluation. This compares to only 23 percent using the previous model utilized by the schools.

Pennsylvania – The Instructional Support Team (IST) process utilizes cross specialty teams working to precisely assess students with academic and behavioral difficulties through curriculum-based assessment and other procedures. The team provides in-class support to the regular classroom teacher over a 50-day period to determine whether the application of effective instructional procedures changes the rate of learning for the student.

Students who display meaningful gains through ongoing monitoring of their performance are not referred for an evaluation for special education. Those students who display resistance to these interventions are referred for evaluation, and typically are later identified as needing special education. The data collected during the IST process helps inform the development of the IEP for the student to ensure special education services are appropriate for the child's needs. This pre-referral process has been a very effective way of determining whether a student's difficulties are the result of a lack of instruction rather than a disability.

When schools in Pennsylvania implemented IST's, 85% of the students identified for the process did not need a further evaluation for special education. Schools with the process saw their rates of identification of students with disabilities either plateau or, in many cases, decrease. In a published study on the results of this program, Pennsylvania found that students undergoing the process displayed improved achievement on academic learning time measures when schools implemented the program with a high degree of fidelity.

Hartsfield Elementary School, Tallahassee, FL – During a five-year implementation of a preventive reading instruction program designed for children in Kindergarten through Grade 3 who performed significantly below grade level, the percentage of children performing below the 25th percentile at the end of the first grade dropped from 31.8 percent to 3.7 percent. Likewise, during the five-year implementation period, the percentage of children performing below the 25th percentile at the end of the second grade was only 2.4 percent.

Heartland AEA District, Des Moines, Iowa – When first graders are tested for early literacy skills and then given targeted instruction for their delays, the skill level of the entire class improved over 25 percent. Students who do not respond to targeted instruction are referred for an evaluation for special education services. Iowa utilizes a "non-categorical" approach to special education; therefore, the students are provided services and support appropriate to their individual needs.

The bottom line is that after more than 25 years of hard work to help students with LD access the services they need to succeed, we know that the IQ-achievement discrepancy model prevents prevention. It focuses on how to document failure through testing, not how to build success through teaching.

Brain Imaging and Scientifically Based Instruction

I now draw your attention to the images of the brain. The images of the brain before scientifically based instruction show little brain activity in the left hemisphere of the brain during reading. After intervention, there is substantial activity in the left hemisphere, resembling that of a successful reader. Although there can be other aspects of the brain that account for the learning disability that have not been changed, we now have neurobiological evidence the positive effects of explicit, targeted, intensive, research-based instruction in reading. Students with SLD who receive scientifically-based instruction actually undergo changes in the brain.

These data make a strong case for adopting a new standard for LD eligibility, and behind these facts and figures are real children, children like Hank a fifth grader in a rural Midwestern school district or Toby a third grader in an inner city school district -- real children who will enter special education after years of limited academic progress -- with little prospect of regaining the ground they have loss. Their rate of growth is likely to decline as they proceed through middle school and into high school and if they are fortunate enough to graduate their prospects in the job market are dismal. These are the real lives behind the data.

Challenges With Bringing RTI to Scale

As with any other research enterprise, implementing the research-based practice on a broad scale is difficult. In the LD area, large-scale implementation is especially difficult because current regulations and the focus on compliance makes schools, districts, and states leery of doing anything that deviates from current IDEA processes, even if it is well- established that the current identification practices should be changed. There is no question that current attempts to broadly expand RTI models are uneven and not uniformly effective. But that is a problem with adult learning, not with the research on how children learn. The issues involve large-scale implementation, not more research on how to do response to intervention models or whether they are effective.

Clearly, all the best intentions and new designs for improving the identification process and delivery of scientifically-based interventions will fall short if the professional educators, administrators, and related and support personnel responsible for implementing these designs do not have the knowledge, skill, will, or resources to implement and sustain them. The LD Roundtable participants have recommended changes in professional development "…that will reinforce the knowledge, skills, and attitudes needed to implement critical structures and processes, such as comprehensive evaluation, interdisciplinary team problem-solving, quality delivery of scientifically-based interventions, and collaboration among regular and special educators and related service personnel." The successful RTI models each document the importance of teacher training and improved alignment in the systems that provide pre and in service training for professional educators.

The *Finding Common Ground Report* goes on to say that "…successful implementation of this approach means that classroom teachers will need to administer repeated measures of student progress and interpret progress monitoring data to identify students who are not performing commensurate with their typically-achieving peers. It also means that special educators and related service providers will need to engage in a range of targeted activities that assist regular educators to select and effectively implement instructional materials and strategies that result in improved student performance. Formal training and ongoing technical assistance and support will be necessary for classroom teachers and related service providers to perform these tasks with fidelity and to use performance data in ways that inform classroom instruction." These are important issues that we must address together.

Conclusion

For twenty-five years, we have used the IQ-achievement discrepancy model, a wait-to-fail model that is known to be:

1. Ineffective – 75% of students receiving reading remediation after 3rd grade never read at grade level
2. Inefficient -- the cost of late remediation is much greater than early intervention in K-2
3. Irrational -- no scientific research base for waiting for failure to deepen
4. Immoral -- it literally forces children to be left behind
5. Indefensible – consensus in the field that is must go.

The opportunity is before you now to do away with it. You can put millions of students on a better trajectory toward academic success and ensure children are given every opportunity to learn rather than fail. Thank you for this opportunity to speak to you today.

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APPENDIX F – WRITTEN STATEMENT OF LARRY LORTON, SUPERINTENDENT, CAROLINE COUNTY SCHOOL DISTRICT, DENTON, MARYLAND.

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HOUSE SUBCOMMITTEE ON EDUCATION REFORM

Improving Results for Children with Disabilities

Testimony Presented by:
Larry L. Lorton, Superintendent
Caroline County (Maryland) Public Schools

March 13, 2003

Mr. Chairman. Committee Members.

My name is Larry Lorton. I come before you today in two capacities: (1) as a superintendent of schools with a long history of involvement with children with disabilities in the school setting, and (2) at the invitation of the American Association of School Administrators (AASA). This appearance before you caps over two years of active efforts in support of increased, preferably full, funding for the Individuals with Disabilities Education Act (IDEA). Most of those efforts targeted my representative, Maryland's 1st District Congressman, Wayne Gilchrest, and senators, Paul Sarbanes and Barbara Mikulski.

It is my hope to achieve one goal: to help convince this committee of the rightness to fulfill Congress' 27 year old as yet unmet promise to fully fund IDEA. I will try to put a face on IDEA funding; to take you into the soul of one of America's 14,500 school districts so you can see for yourself how one school system takes its role of accountability seriously by delivering children and their parents the kinds of services that get results. You will see that Caroline County, representative of hundreds of other school districts across this great land, not only achieves much with little but with adequate resources could do even more to enrich the lives of needy children and ensure even more bright futures.

I will not dwell on the Congressional funding shortfall except to demonstrate its negative impact. You know the numbers better than I. You know the cumulative funding deficit. You know what it will take to make school districts whole. I will only confirm that I unequivocably support the full funding of IDEA and try to show you why.

CAROLINE COUNTY: A BRIEF PROFILE

Unlike most states Maryland school systems are organized around counties. There are 23 counties in Maryland and with the City of Baltimore total 24 school districts. They range in size from Montgomery County with a population about 900,000 and 135,000 students to Kent County with 19,000 residents and 2,800 students. Caroline, like Kent, resides on the so-called Eastern Shore along with seven other counties. Caroline has about 30,000 people and 5,400 students. Additionally, unlike many states, Maryland school boards are fiscally dependent on state and county government for operating and capital revenues. Boards of education in Maryland have no taxing authority nor can local boards use ballot referenda for either operating funds or levies for facilities improvements.

Caroline County is among the poorest subdivisions in the State of Maryland. It ranks 23rd in its taxable wealth per student, the single best measure of the ability of local government to raise revenue. Caroline is dead last in spending per pupil and dead last in the percentage of the local government's revenue appropriated for public education. Caroline is the only subdivision in the state where its primary industry is agriculture. The adult illiteracy rate is estimated to be close to a third of its population, around 30%, and the percentage of children in school on free and reduced lunches is just shy of 42%. Caroline has the 4th highest percentage of Hispanic students in the state. Its median family income is 32%, a full third, below the state average. Its unemployment rate is over 25% higher than the state average and the 8th highest poverty rate at 11.9%. It is, in essence, a county of the working poor.

THE CAROLINE COUNTY PUBLIC SCHOOLS: OVERCOMING OBSTACLES

In the midst of these un-promising statistics is a school system that performs beyond its predictions. At the core of this swirl of socio-economic negatives is a school system that defies its fortune. In a state recognized nationally for its tough educational accountability program, Caroline consistently out-performed most other counties. Over the 8 years of the administration of the Maryland School Performance Program (MSPP) Caroline had the third highest overall gain. In the last administration in 2002 only two counties exceeded Caroline's overall reading performance ranking 5th best in 3rd grade and 6th best in 5th grade. In a state where my own statistical analyses shows that nearly 80% of the variance in reading performance on MSPP is attributable to the burden of poverty children carry on their backs through the school house door and the expenditure per pupil, Caroline County far exceeds predicted performance expectations. Arguably, no school system does more with less than the Caroline County Public Schools.

Key to this discussion is the reminder that all children with few exceptions, including children with special needs--special education children--take part in the state assessment.

Additionally, Caroline County is in its 26th year of full time, all day kindergarten for every child. Resting on what research and studies have repeatedly shown over the last 40 years, Caroline's commitment to children entering school ready to learn has taken place without full state funding support.

In the last three years Caroline has systematically reduced its class size in grades one and two to an average of about 18. Also, Caroline is in its second year of restructuring, interventions and support for children in grades K-12. Some of the key features are integrating the applications of technology, replacement of noncertificated instructional assistants with highly trained professionals, doubling the middle school time devoted to reading and mathematics, and the development of a series of uniform and district-wide end of course examinations in core high school content areas. These and many other local initiatives are made possible because of Caroline's ability to compete for and acquire grants. As of this day Caroline totals 128 such grants totaling $17,907,175. This figure exceeds by over 70% local county government's appropriation to our general operating fund.

School Boards and superintendents, past and present, generated and sustained a belief in and a vision of commitment to children and the classroom. Over 80% of the general operating budget is allocated to schools. Within the remaining 20% are utilities, administration, and other necessary and ancillary costs.

CAROLINE'S FISCAL FUTURE

Maryland is among those states for which questions of fiscal equity among school districts has been a key concern for well over 20 years and nine attempts to address it at the state level. Today, if Caroline were to spend what Montgomery County spends per student it would mean an additional $15.2mm to our mission. If we spent what Howard County spends it would add $9.5mm to our coffers. At the same rate of spending as a neighboring school district Caroline would have $12.4mm additional dollars. If Caroline merely matched the state average it would mean an additional $7.0mm. School funding is not equitable.

Potential good news does rest on the horizon. The 2002 Maryland legislature approved a dramatically revised overhaul of school funding following two years of the most comprehensive and detailed study of its kind. The Commission on Education Finance, Equity and Excellence attempted what no other such effort has been able to do; first, define what constitutes an adequate education for all children, and second, develop a funding plan and appropriation formula to provide an adequate education for every child. The resulting legislative plan provided a two year "bridge "of funding increases moving from the old state formula and funding levels to the new four year phase in of the adopted Commission recommendations (FY 05 - FY 08). If funded, Caroline will receive the largest increase per pupil in the state at the end of FY 08. However, a host of national and state economic events suggests not only puts the funding of the revised formula in jeopardy but threatens FY 04 Bridge funding as well.

CHILDREN WITH SPECIAL NEEDS: A CAROLINE COUNT PROFILE

Seven hundred fourteen (714) of Caroline's nearly 5,400 students (13.24%) have educationally handicapping conditions. This is nearly one in seven children. For reporting purposes diagnoses of children leading to the development of an Individualized Education Program (IEP) places every IEP holding child in one of 14 disability codes. Nearly all children are diagnosed in only six of the 13:

Disability Code	Number	Per Cent*
Mental Retardation (01)	62	9%
Speech/Language Disorders (04)	226	32%
Emotionally Disturbed (06)	27	4%
Specific Learning Disabilities (09)	334	47%
Multiple Disabilities (10)	24	4%
Autism (14)	18	2%

*Percentages have been rounded to the units place.

Trends reveal that the category of Specific Learning Disability is growing the fastest by far with Emotionally Disturbed, Multiple Disabilities and Autism next.

Overall, most diagnoses are made by age ten in a pattern of more diagnoses with each succeeding age starting at three. Generally, a severe drop-off occurs at age 14. Interestingly, 92% of Developmental Delays are diagnosed by age five. Males with IEPs outnumber females almost 2:1. African American children constitute 19% of diagnosed children (190), Hispanics 1%, and Caucasians 77%. Caroline's African American student population is also 19%.

CAROLINE SPECIAL EDUCATION SERVICES

Almost from the outset Maryland's service delivery model differed from that of many states. Rather than grouping children by disability Maryland featured a "level of services" model. Basically, a level of service more or less corresponds to the number of hours a child needs special education per day. Levels 1-4 generally are delivered right in the child's home school. Level five is a special facility or school site in the child's home district. Level six is a residential placement.

A key and maybe subtle implication of this model is its inherent focus on inclusion. A child is looked upon as included, the least restrictive environment, with special services as needed rather than the other way around where self-contained is the norm with inclusion as warranted.

In addition to the complement of specially trained and certificated special education leading staff, Caroline also has special education aides working with teachers and children.

Being a relatively small, rural school district Caroline initiated two other highly effective but efficient service delivery modes. The first was the development of a special education consortium with four other county school districts. Audiology and teachers for the hearing and visually impaired and occupational and physical therapists serve all five districts. Operating on a $1.1mm budget shared by the districts the consortium delivers much needed services to all children that would be either impossible to find or inordinately expensive otherwise.

A second initiative organized Sunday night delivery and Friday night pick up of blind and deaf children from seven counties placed in residential facilities. Again, the transportation consortium is both effective and efficient.

UNDERFUNDED IDEA AND EDUCATIONAL SERVICES

With this briefest of sketches four conclusions can be safely drawn:

(1) Caroline County delivers an impressive level of services to children with special needs,

(2) state accountability performance data indicate that Caroline delivers high quality, effective services to all children,

(3) it does so despite the conditions that would justifiably predict otherwise, and

(4) it does so despite even with severely limited resources.

Attachment "A" shows 13 years of federal and state revenue support for special education compared to the school district's special education budget. The crucial, obvious, most damaging points to grasp from this graph are: (1) how far short federal funding through IDEA comes to underwriting its fair and obligatory share of services for children with special needs, and (2) how many local dollars as shown by the difference on the black bars between the special education budget and total of federal and state support are needed to provide special education services. Services must be provided. They are not optional. Local school districts must make up the difference!

Attachment "B" is a spread sheet showing Caroline's FY 02 budget disaggregated by budget category. This data is presented to show that Caroline's plea for full funding of IDEA is justified by real numbers. While applying some indirect costs would be justified, we chose not to. You deserve a conservative, realistic picture. Remember, in Maryland in general and in Caroline County in particular, special education children with few exceptions spend some portion of their school day in regular classes along side non-handicapped peers with regular teachers. Each hour, each day, for every such child student/staff ratios increase, textbooks and other instructional materials are used, and a regular classroom teacher not in the special education budget is delivering instruction.

Some would have you believe that local school district claims of the impact of "unfunded mandates" such as IDEA (and NCLB) are overstated. In the Caroline County Public Schools and with IDEA, even a conservative fiscal analysis proves otherwise.

CONCLUSION

In no way does the appeal for fully funding IDEA dismiss responsibilities or accountability elsewhere. Nor do such appeals suggest a fully funded IDEA is the final answer--the missing piece of the fiscal puzzle. Fully funding IDEA at the very least merely creates an opportunity for local school systems to do a better job.

Fully funding IDEA possesses not only a moral and ethical dimension in the context of a promise and commitment not kept. Fully funding IDEA has a very practical, classroom focused, child-centered dimension. Every dollar lost from inadequate IDEA support is a dollar lost for enhanced or improved special education services and/or enhanced and improved services for other children. Contrary to what some critics charge money does make a difference in the educational lives of children. It certainly would make a difference in the Caroline County Public Schools.

APPENDIX G - WRITTEN SET OF PROPOSALS AND POSITION STATEMENT PRODUCED BY THE IDEA FUNDING COALITION SUBMITTED FOR THE RECORD BY MR. LARRY LORTON, SUPERINTENDENT, CAROLINE COUNTY SCHOOL DISTRICT, DENTON, MARYLAND.

IDEA Funding: Time for a New Approach

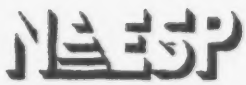
Mandatory Funding Proposal

March, 2003

Produced by the IDEA Funding Coalition:

American Association of School Administrators

nea
NATIONAL EDUCATION ASSOCIATION



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IDEA Funding: Time for a New Approach
Mandatory Funding Proposal

In 1975, our country took a major step forward in promoting the inclusion and equality of one of our most disenfranchised groups of citizens. Passage of the Education for All Handicapped Children Act (now known as the Individuals with Disabilities Education Act), assured that all children with disabilities receive a free, appropriate public education.[1] More than six million children with disabilities are no longer limited by their families' ability to afford private education; they are no longer forced to attend costly state institutions, or worse, stay home and miss out entirely on the benefits of an education. IDEA ensures that children with disabilities may attend public schools alongside their peers. There is no question about it: students, schools, and communities are enriched when all children have a right to a free, appropriate public education.

November 2002 marked the 27th anniversary of IDEA. Despite all that has been accomplished on behalf of children with disabilities, much more remains to be done. In the 27-year history of the Individuals with Disabilities Education Act, the federal contribution has always fallen far short of the congressional commitment to fully fund IDEA. Local and state budgets have been forced to absorb the shortfall.[3] In the last several years Congress has made significant progress, but IDEA appropriations still need a 119 percent increase before IDEA is fully funded.[2] After 27 years, the magnitude of that shortfall demands a new approach. It is time to make special education funding mandatory and deliver on a long overdue promise.

Basics of the Proposal:

- Make IDEA funding mandatory.
- Increase the federal contribution from 18 percent to 40 percent.
- Accomplish full funding gradually over six years.
- Require states to maintain their level of effort.
- Encourage schools to intervene early in a child's life and provide developmentally appropriate programs and services. Developmentally appropriate intervention during the early years would dramatically reduce later referrals to special education and eventually help curb the costs of special education.

What is full funding of IDEA?

Part B of IDEA originally authorized Congress to contribute up to 40 percent of the average per pupil expenditure (APPE) for each special education student.[4] In 2003 the average per pupil expenditure is expected to be $7,402[5]. With 6,580,000 students served under IDEA, schools are qualified to receive $19.5 billion in federal funds.

Unfortunately, schools are only receiving $8.9 billion. In other words, schools are currently receiving roughly 18 percent rather than the federal commitment of 40 percent of APPE[6]. Although that is a significant sum, schools will spend more than $92.5 billion on those students in the same year[7]. In addition, there are different programs within IDEA that are funded individually and serve specific purposes. For example, Part C of IDEA is designed to meet the developmental needs of infants and toddlers and their families in order to prevent later disabilities. These other parts are also under funded.

How close is the federal government to fully funding IDEA?
Federal funding is $10.6 billion short of full funding this year and would need a 119% increase to be fully funded.[8]

How does the federal shortfall hurt school districts and students?
While much attention has been paid to rising federal expenditures for special education over the past few years, new federal funding has not kept pace with increasing costs at the local level. In fact, special education costs for local school districts are rising substantially faster than new federal funding. Even with recent increases in federal special education funding over the past few years, the local financial burden has increased from 39 percent of total spending to 45 percent during the same time period.

The federal government is shortchanging local school districts more than $10.6 billion in FY2003 alone. If IDEA had been fully funded for the last 27 years, state and local governments would have saved $322 billion which would have been available to increase teacher salaries, increase student achievement or to purchase new computers and up-to-date textbooks. That $322 billion could have been used to build over 43,000 new elementary schools or hire over 300,000 new teachers and other educators, which would have resulted in a "highly qualified" workforce and led to increased student achievement.

According to the US Department of Education, "Historically, local educational agencies have struggled with meeting the minimal education needs of a growing population of children with disabilities"."

Why should the program be funded through mandatory spending instead of discretionary funds?
For 27 years Congress has promised to fully fund IDEA, yet funding is roughly 18 percent. At increases of $1 billion plus inflation (2.5%) per year, Congress is on course to fully fund IDEA in FY 2035." School children cannot wait another 33 years. IDEA services are required by federal law; accordingly, the funding should be mandatory.

How will the proposal for mandatory expenditures solve the problem?

The proposal would gradually increase federal spending over the next six years through annual increases of $2.52 billion per year over the next six years. Funding for IDEA would be moved out of the discretionary portion of the budget and into mandatory spending. This increase would raise the federal share of APPE by an average of 3.6 percent each year.

Would mandatory funding relieve the funding burden on state and local governments?
IDEA allows school districts a flexibility exception to the local maintenance of effort, supplement not supplant and excess cost requirements of IDEA. Specifically, the law and its implementing regulations state that for any fiscal year in which the appropriation for Part B state grants exceeds $4.1 billion (as it has since 1999), a school district may use up to 20 percent of the increase from the prior year's funding for local education expenditures." However, the cost of IDEA is increasing so rapidly that many districts are not able to take advantage of the flexibility. When IDEA funding nears the 40 percent commitment, schools will finally be able to free up local resources for its intended purposes. To this end, the proposal requires that any local funds freed up by the new federal funds be spent on other education programs and services.

How would the shift from discretionary funding to mandatory funding affect other education programs and improve services for all students?
The shift from discretionary to mandatory funding is not intended to negatively impact the availability of funds for other education programs. Mandatory funding for IDEA would simply guarantee new funding each year independent of discretionary spending constraints, moving the program toward its statutory full funding total. It would free up crucial dollars at the local level which would allow more dollars to be spent on programs that will benefit all students, including disabled students, in the school. The IDEA funding coalition agrees that it is important to increase funding in all areas of education to meet growing demands.

What is the approximate cost of the full funding proposal?
For FY 2003 the federal share of Part B of IDEA is $8.9 billion. With full funding, the federal investment would then increase to an estimated $23.9 billion a year by 2009." Fully funding IDEA by FY 2009 would cost approximately $106 billion over the next 6 years." If IDEA funding were frozen at current spending levels, federal funding over the next six years would amount to $45.2 billion in expenditures.

Who supports mandatory full funding of IDEA?
In addition to the education groups that are part of this coalition, mandatory full funding for IDEA enjoys broad bipartisan support. In addition to our organizations, both the National Governors Association and the National Conference on State Legislatures strongly support guaranteed full funding. Currently, 35 states have passed

state resolutions urging Congress to fulfill its 40 percent commitment. In the 107th Congress, the House had mandatory funding bills with cosponsors totaling over 120 Members; while in the Senate, the Hagel – Harkin Mandatory funding amendment passed overwhelmingly as part of the debate on No Child Left Behind.

This year offers the best opportunity to help IDEA.

There is no issue more fundamental to a successful reauthorization of IDEA than guaranteed full funding. The failure of Congress to provide full funding for the past 27 years has adversely impacted the ability of local schools to provide quality educational services for all children. With this year's reauthorization of IDEA, Congress has an opportunity to provide the necessary resources for a successful implementation of IDEA. According to the National Governors Association, states are experiencing budget deficits expected to range close to $82 billion nationwide at the end of this fiscal year. Given this situation, now, more than ever it is imperative for Congress to meet this commitment. Students with disabilities have a right to the same educational opportunities as all other students, and the federal government has an obligation to pay for part of it. It's past time to remove IDEA from the annual funding showdown and make good on a 27 year old promise.

[1] See Education for All Handicapped Children Act of 1975, 20 U.S.C. § 1400 et seq.

[2] Based on a 2002 study by the Special Education Expenditure Project, Chambers, Parrish, et al, educating a special education student costs an average of 1.9 times as much as a regular education student. As indicated in Appendix I, FY2003 APPE is an estimated $7,402. Therefore, the excess cost created by the average special education student is 1.9 times APPE, or $6,662. With 6,580,000 children served by IDEA, each costing an average excess $9,369, approximately $43 billion was spent on excess special education costs in FY 2003. The federal share of $8.8 billion is only 18 percent of the excess cost of special education.

[3] Current funding for IDEA is $8.88 billion. The FY2003 IDEA authorization level was $19.48 billion (see appendix I). Therefore, the program is $10.6 billion short of full funding this year. A 119 percent increase is needed to fully fund IDEA.

[4] 20 U.S.C. § 1411(a).

[5] See Appendix I.

[6] To calculate percentage of APPE funded by current law: (current funding)/(APPE*Enrollment) or ($8.8 billion)/($7,402*6,580,000)= 18.00 percent.

[7] Based on a 2002 study by the Special Education Expenditure Project, Chambers, Parrish, et al, educating a special education student costs an average of 1.9 times as much as a regular education student, or $14,063 per pupil. With 6,580,000 students, that amounts to approximately $92.5 billion.

[8] See Appendix I for difference between FY2002 Appropriation and FY2002 Authorization.

[9] Parish, T. B. (2001). Who's paying the rising costs of special education? Journal of Special Education Leadership, Vol. 11 (1). Council of Administrators of Special Education.

[10] Department of Education, Fiscal Year 2002 Justifications of Appropriation Estimates to Congress, Volume 1.

[11] Using conservative estimates, CRS has APPE inflationary growth at 2.5% per year and the disabled child count at 1% growth. Based on a CRS report prepared by Senate request in Winter, 2002.

[12] 20 U.S.C. § 1413(a)(2)(C); 34 C.F.R. §300.233 (1999).

[13] See Appendix I.

[14] Current funding is $8.9 billion. To reach full funding of $22.5 in 6 years, funding needs to be increased by roughly $2.52 billion each year. At an increase of $2.52 billion a year, an additional $106.2 billion will be spent on IDEA during the six year period. (See Appendix I)

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Appendix I: IDEA Authorization Estimates

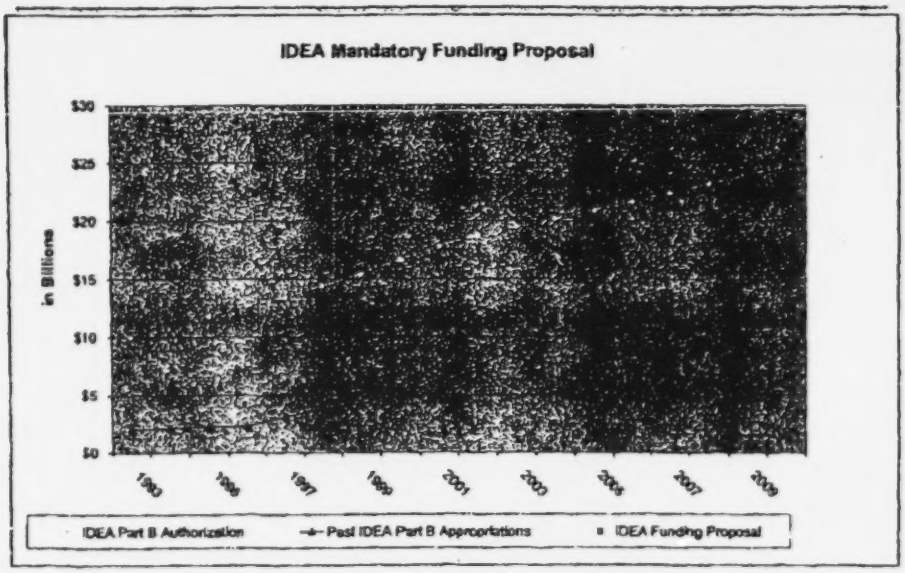
FY	Per Pupil Expenditure	Special Education Enrollment	IDEA Authorization	Actual IDEA Spending	Education Community IDEA Full Funding Recommendations	% of Per Pupil Spending Paid by Fed. Gov.
1993	$5,108	4,896,000	$10,003,507,200	$2,050,000,000		8.1%
1994	$5,206	5,101,000	$10,732,504,000	$2,150,000,000		8.0%
1995	$5,429	5,467,000	$11,872,137,200	$2,320,000,000		7.8%
1996	$5,640	5,629,000	$12,699,024,000	$2,320,000,000		7.3%
1997	$5,796	5,806,000	$13,460,630,400	$3,110,000,000		9.2%
1998	$6,046	5,978,000	$14,457,195,200	$3,800,000,000		10.5%
1999	$6,296	6,133,000	$15,445,347,200	$4,310,000,000		11.2%
2000	$6,631	6,274,000	$16,641,157,600	$4,989,000,000		12.0%
2001	$7,006	6,381,000	$17,882,114,400	$6,340,000,000		14.1%
2002	$7,248	6,483,000	$18,795,513,600	$7,528,533,000		16.0%
2003	$7,402	6,580,000	$19,482,064,000	$8,874,398,000		18.2%
2004	$7,564	6,672,000	$20,186,803,000		$11,400,000,000	22.6%
2005	$7,743	6,759,000	$20,933,975,000		$13,920,000,000	26.6%
2006	$7,930	6,840,000	$21,696,480,000		$16,440,000,000	30.3%
2007	$8,122	6,915,000	$22,465,452,000		$18,960,000,000	33.8%
2008	$8,318	6,984,000	$23,237,165,000		$21,480,000,000	37.0%
2009	$8,518	7,047,000	$24,010,538,000		$24,000,000,000	40.0%
2010	$8,718	7,103,000	$24,769,581,000		$24,769,000,000	40.0%

The data displayed in this chart is a product of the most recent data available from the Department of Education Budget Service. Current as of March, 2003.

IDEA Spending: This Column is all historical data provided by the annual CEF Education Budget Alerts.

Education Community Proposal: This column illustrates $2.52 billion increases each year for the next 6 years. This is only a suggested path to mandatory full funding.

Percentage of Per Pupil Spending: This column is a calculation of the appropriation level (or proposed appropriation level) divided by the total authorization level (column 3).



IDEA Funding Coalition Membership

The IDEA Funding Coalition is a working group of nine non-profit education associations sharing an interest in special education finance. The coalition is dedicated to creating mandatory resources for the Individuals with Disabilities Education Act. For more information, please contact any of the following:

American Association of School Administrators - Mary Conk Kusler, (703) 875-0733
American Federation of Teachers –Jodie Fingland, (202) 393-7487
American Speech-Language-Hearing Association - Neil Snyder, (202) 624-7750
Council for Exceptional Children – Deborah Ziegler, (703) 264-9406
Council of the Great City Schools - Jeff Simering, (202) 393-2427
National Association of Elementary School Principals - Sally McConnell, (703) 518-6263
National Association of Secondary School Principals - Steve DeWitt, (703) 860-7338
National Association of State Directors of Special Education – Nancy Reader, (703) 519-3800
National Education Association –Joel Packer, (202) 822-7329
National PTA - Carolyn Henrich, (202) 289-6790
National School Boards Association - Dan Fuller, (703) 838-6763

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APPENDIX H – WRITTEN STATEMENT BY ZERO TO THREE POLICY CENTER SUBMITTED FOR THE RECORD BY RANKING MEMBER LYNN C. WOOLSEY, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

"I would like to recognize ZERO TO THREE, a research-based national organization that is committed to promoting the healthy development of our nation's infants and toddlers, for the contributions they seek to make in reauthorizing Part C of IDEA. I would also like to ask that their testimony be included in the record."

Testimony of ZERO TO THREE Policy Center
before the

Education and Work Force Committee
United States House of Representatives

IMPROVING PART C EARLY INTERVENTION:
Using What We Know About Infants and Toddlers With Disabilities to Reauthorize Part C of IDEA

Presented by:

Cindy Oser, R.N., M.S.
Director of State Policy Initiatives
ZERO TO THREE Policy Center

March 13, 2003

Mr. Chairman and Members of the Committee, I am delighted to have the opportunity to appear before you today on behalf of ZERO TO THREE. I am Cindy Oser, Director of State Policy Initiatives at the ZERO TO THREE Policy Center and a former Part C Coordinator from the State of Ohio. ZERO TO THREE is a national non-profit organization that has worked to advance the healthy development of America's babies and toddlers for over twenty-five years. I would like to start by thanking the Committee for their interest in bringing early intervention policy in line with current research findings.

The first years of life lay a foundation for the future development of all infants and toddlers. Most babies develop and grow in predictable ways; they walk, talk, and gain new skills on schedule. For some young children, however, development unfolds according to a slower timetable or in an atypical fashion. The primary reason for a problem in early development may be physical, mental, environmental, or a combination of factors. Often the cause remains unknown and the future is uncertain. What we do know, however, is that extremely premature babies, infants with genetic conditions such as Down syndrome, and young children with physical disabilities such as cerebral palsy or spina bifida, among others, need and respond to supportive interventions.

Part C is a fundamentally sound program, with many documented successes. The re-authorization of IDEA, particularly Part C, provides an opportunity to close the gap between what we ***know*** about the benefits of early childhood intervention and what we ***do*** for families of infants and toddlers with or at high risk for disabilities. More than four decades of knowledge about early childhood development, which has been integrated into a widely acclaimed report from the National Research Council and Institute of Medicine entitled, *From Neurons to Neighborhoods: The Science of Early Childhood Development*, can help inform the re-authorization process. ZERO TO THREE's recommendations are based on this meticulously reviewed and authoritative source of cutting-edge research in child development.

Early intervention can have significant impacts.

Infants and toddlers with disabilities benefit from early intervention, as do their families. In such cases, specialized services and supports, such as physical therapy, speech and language therapy, special education, home visits, family support, and service coordination, increase the chances a child will develop to his or her full potential. Young children with special needs who receive early intervention services are better prepared for school and later life. Their families have distinctive needs as well, which Part C addresses by providing both emotional support and information about the child's disability so parents can promote their own child's development and function as his or her best advocate.

The science of early childhood development demonstrates that the most effective interventions are individualized to meet the child's and family's needs, delivered through

high-quality programs with well-trained personnel, and provided at a level of sufficient intensity and for a long enough period of time to make a difference.

More children can benefit from early intervention.

Since the federal concept of early intervention was created, the number of infants and toddlers receiving services has increased more than six-fold. From 1987 to1988, slightly fewer than 30,000 children with disabilities, age birth through 2 years, were served under IDEA. From 1999 to 2000, that number rose to more than 230,000 (U.S. Department of Education, 2001). Stated simply, the numbers of identified children are increasing dramatically, sometimes beyond the capacity of the systems that serve them. Yet there are still many infants and toddlers with disabilities who are not receiving needed services.

In addition to children with disabilities, infants and toddlers who are at very high risk for significant developmental problems can also benefit from early intervention. These young children do not currently have a diagnosed disability or delay in their development, but their life circumstances result in a high probability for learning difficulties and social problems later in life. This includes infants and toddlers born to parents with drug or alcohol addiction, those whose parents are mentally retarded, or those whose environments contain multiple risk factors such as extreme poverty, family mental health problems, and exposure to violence, abuse, or neglect.

- The science of early childhood development asserts that threats to development can originate in the child (i.e., a biological cause for a developmental delay or disability) or in the environment (i.e., adverse circumstances such as family violence, parental mental illness, or substance abuse), which often precipitate developmental difficulties in young children. Significant vulnerability is found more often in circumstances characterized by multiple risk factors rather than one single source. The combined impact of both biological and environmental risk poses the greatest threat.

For children with diagnosed disabilities, early intervention provides intensive supports and services to promote the greatest level of development and independence possible. For children at significant risk, early intervention can serve as a buffer against the multiple factors that hinder their developmental progress.

Implications for Reauthorization

The reauthorization of Part C, Programs for Infants and Toddlers with Disabilities, offers an ideal opportunity to connect what we know with what we do for babies and toddlers with disabilities. ZERO TO THREE offers the following recommendations, based on the science of early childhood development, to bring policy more in line with current research findings.

1. Permanently reauthorize Part C.

Part C is an effective mechanism to identify and serve young children with developmental disabilities or delays. Without Part C, infants and toddlers with special needs fall even further behind in their development and consequently require more expensive services and supports later in school and beyond. Without Part C, families would lack the knowledge to cope effectively with the challenges of having a young child with developmental difficulties. Permanent reauthorization would facilitate the integration of early intervention programs into stable, statewide systems of comprehensive services and supports for very young children and their families. Stated simply, if the science of early childhood development points to significant returns from well targeted investments in effective early interventions, why has Part B been permanently authorized while Part C has not?

2. Provide sufficient funding to identify and serve all infants and toddlers with developmental disabilities or delays.

Part C is first and foremost for infants and toddlers with documented disabilities or delays in their development. All children who meet this eligibility criterion must be identified early and appropriately served. A significant percentage of children with disabilities are identified in the first three years of life. Waiting to detect serious learning problems for the first time when children arrive at kindergarten is unacceptable. In the absence of early intervention, such developmental problems often get worse and can lead to secondary disabilities, which will be more expensive to address later. A child with a hearing impairment, for example, may develop serious speech and language delays if he or she is not provided appropriate hearing aids, communication therapy, and special instruction. Unfortunately, there are many infants and toddlers with special developmental needs who would benefit from early intervention but are not identified and served in a timely fashion.

After the creation of the Early Intervention Program under IDEA, many states considered serving children who are at risk for developmental problems. However, many states feared an influx of large numbers of eligible children and their associated increased costs as well as the potential need for new program approaches and interventions that might have to be developed for this population. Currently, most states are not serving "at-risk" infants and toddlers under Part C. The eight exceptions have adopted a variety of approaches to serving such children[1]. Each of these states has adopted a different set of at risk eligibility criteria (National Early Childhood Technical Assistance Center, 2002). Some states have elected to serve at-risk children only under a particular category of risk (e.g., biological, medical, or environmental risk). Other states consider family circumstances to determine the child's eligibility. Nevada, for example, considers a child at-risk if her or his mother is 15 years old or younger. Massachusetts grants Part C

[1] California, Hawai'i, Indiana, Massachusetts, New Hampshire, New Mexico, North Carolina, and West Virginia

eligibility at birth if a child has at least 4 of 20 potential risk factors. In the absence of a unified approach, or stronger emphasis on prevention, many children are "falling through the cracks."

3. Enhance early identification (child find) of infants and toddlers with disabilities through the following actions:

(a) Require that every infant and toddler who has been determined to have a substantiated case of abuse or neglect is referred to a protective services agency for evaluation of suspected abuse or neglect be automatically referred for a developmental-behavioral screening under Part C, Temporary Assistance for Needy Families (TANF), and early care and education systems.

One of the original tenets of Public Law 99-457, Part H, was that the system of services for young children and families must be interagency in nature. To that end, Part H was characterized as "glue money" and viewed as a mandate for collaboration. Over the years, it has become increasingly clear that while coordinating and streamlining existing service systems is a laudable goal, interagency agreements often fall short of creating systems that are easy to find, easy to use, affordable, and helpful to families of young children with disabilities.

Within this context, one of the most blatant failures in the current service landscape is the missed opportunity to address significant unmet social and emotional health needs in young children who pass through public agencies focused on welfare reform, child protective services, and mental health. *From Neurons to Neighborhoods* calls for state and local decision-makers to take bold actions to design and implement coordinated, effective infrastructures to reduce the longstanding fragmentation of early childhood policies and programs. For example, it suggests that each state should be required to develop a systematic plan for developmental screening of all infants and toddlers entering its child welfare system, with a strategy for appropriate referrals of all children with delays or who are at-risk for delays to the Part C system.

(b) Expand the existing eligibility category of "diagnosed physical or mental conditions" to include "family conditions that have a high probability of resulting in a developmental delay, such as significant parental mental illness, parental substance abuse, and significant family violence."

These young children do not currently have a diagnosed disability or delay in their development, but their life circumstances result in a high probability for learning difficulties and social problems later in life. For example, children with depressed mothers show greater risk of developing socio-emotional and behavior problems, which translate into difficulties in school, poor peer relationships, reduced ability for self-control, and aggression as compared to children with non-depressed mothers. Part C can provide family counseling, training, home visits and infant mental health

services to reduce risk and promote healthy development. Without Part C, these children will most likely require special education and behavioral health services later in life.

4. Improve the overall quality of services through the following mechanisms:

(a) Renew investments in professional development with a targeted focus on building expertise in early social-emotional development and mental health, including creation of a National Resource Center on Infant Mental Health and Early Intervention to enhance the knowledge and skills of personnel who work with infants, toddlers, and their families.

The quality of early intervention services is only as good as the individuals who provide them. Therefore, funds should be made available for pre-service and in-service education for the practitioners who are involved in the provision of such services. Substantial new investments should be made to increase the nation's capacity to treat emotional and social problems in young children, including increased funding to train infant mental health specialists. The expansion of opportunities for professional training, as recently called for by the Surgeon General, and the provision of incentives for individuals with pertinent expertise to work in settings with young children, are essential first steps towards more effective screening, early detection, treatment, and ultimate prevention of serious childhood mental health problems.

As greater numbers of children with a range of developmental and behavioral problems enroll in child care and Early Head Start programs, providers of early care and education are increasingly faced with the limitations of their own professional training and the scarcity of expert consultation available to help them address a variety of special needs. Furthermore, families with special needs seek guidance from these and other service providers in understanding how to promote their child's atypical development

To address these needs, IDEA Part D (National Activities to Improve Education of Children with Disabilities) should include a priority focus area for infants and toddlers in personnel preparation, training, demonstration, and state improvement grants. Building on high quality practice models that address the unique needs of infants and toddlers, colleges and universities need to support specialized training for practitioners in the infant/family field. The development of innovative models for consultation, supervision, and mentoring, for example, would help program leaders and early intervention providers respond to a variety of societal challenges, such as the shifted emphasis toward natural environments, partnerships with child care and Early Head Start programs, and a renewed focus on school readiness.

Currently, there is no national training vehicle that focuses on infant and toddler practice issues. As a result, their needs take a back seat to those of the larger

population of older children and youth. Establishing a National Resource Center for Infant Mental Health and Early Intervention would help by facilitating the sharing of important information and resources among communities and across states.

(b) Develop and implement a set of standards for early intervention practice.

It is clear that the Part C system is committed to meeting federal and state requirements and to improving the quality of its services. One barrier to quality improvement, however, is the lack of nationally recognized standards, measures, benchmarks, or indicators for early intervention programs. Because services are not designed or delivered uniformly, it is difficult to evaluate their impact without such standards. One panel of noted early childhood scientists concluded, " . . . the overarching coherence of the knowledge base that informs the practice of early childhood intervention is compromised significantly by its highly uneven implementation" (National Research Council and Institute of Medicine, 2000, p. 35). Although national standards would not address all implementation concerns, such as access to services, participant attrition, and the overwhelming needs of some families, standards would help to define high-quality practice. In fact, Early Head Start attributes its success to an emphasis on implementing performance standards that ensure high quality services (Mathematica Policy Research, Inc. & Columbia University's Center for Children and Families at Teachers College, 2002). With increased emphasis on quality, accountability, and outcomes-based funding, national standards for early intervention practice would ensure that providers have the information they need to deliver effective, quality services.

Conclusion

During the first three years of life, an important foundation is created for a lifetime of health and development. These years are even more important for infants and toddlers with special needs. For a young child with a diagnosed disability, early intervention provides intensive services and supports to promote the highest possible level of developmental competence. For children at significant risk, early intervention can serve as a protective buffer against the multiple adverse influences that hinder their developmental progress.

It is clear that children with identified developmental delays or disabilities must remain the priority target group for Part C services. However, it is also clear that multiple risk factors (such as extremely low birth weight, poverty, and exposure to maternal depression, domestic violence, and substance abuse) can derail the early developmental process. If sufficient funding were provided through Part C to promote the development of highly vulnerable infants and toddlers without a diagnosed disability or delay, fewer of these children would exhibit the negative long-term effects of early exposure to environmental and circumstantial risk. Most states, however, have chosen to not serve young children who are at-risk for difficulties, and therefore many such

youngsters must wait until a delay or disability appears before Part C services can be offered.

The science of early childhood intervention points to the potential return of significant developmental dividends to young children, their families, and society. Therefore, efforts must focus on permanently authorizing, fully funding, and significantly improving the overall quality of Part C so that the most vulnerable babies and toddlers in our nation have the best possible start in their lives.

APPENDIX I – LETTERS OF CORRESPONDENCE SUBMITTED FOR THE RECORD BY REPRESENTATIVE ED CASE, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

ED CASE
2nd District, Hawaii

128 CANNON
HOUSE OFFICE BUILDING
202-225-4906

U.S. House of Representatives
Washington, DC 20515-1102

March 27, 2003

The Honorable Michael N. Castle
Chairman
Subcommittee on Education Reform
Committee on Education and the Workforce
H2-230 Ford HOB
Washington, D.C. 20515-9998

Dear Chairman Castle:

Thank you for holding our Subcommittee's productive March 13, 2003 hearing on the Individuals with Disabilities Education Act titled "Focusing on Improving Results for Children with Disabilities". I write to supplement my comments at that hearing as we consider appropriate amendments to IDEA to improve its operation.

Specifically, IDEA, while in concept of unquestioned benefit to children with special needs and to our overall society, has in operation created significant financial and administrative burdens in my state of Hawaii, burdens which have hindered the delivery of services to IDEA children. Accordingly, prior to the hearing I wrote to those colleagues in Hawaii charged with the on-the-ground operation of IDEA to obtain their realistic assessments and recommendations.

I have previously submitted the responses of Hawaii State Superintendent of Education Pat Hamamoto and others into the record. A summary of their response and my own thoughts follows:

1) The federal government must fully fund the federal share of IDEA at 40%. The funding must also be mandatory and not subject to the annual appropriations process. The 11% state set-aside must not be reduced or eliminated either. This set-aside is essential for the Hawaii Department of Education to fulfill its state educational agency responsibility under IDEA and to provide statewide leadership, technical assistance and capacity.

2) Except for the reimbursement of private school placements and independent educational evaluations, it is not the Congress but the courts that have primarily determined remedies under IDEA. Since IDEA is intended to ensure a free appropriate public education to students with disabilities, damages should be excluded as a remedy under IDEA. The current provision of compensatory reimbursement for education and/or services provided to the student when there has been a denial of a free appropriate public education and/or the delivery of other equitable remedies meets the intent of IDEA.

3) Mediation in disputed examples should be required, without legal compensation, prior any party filing for a hearing. This may help resolve the dispute more amicably and reduce legal fees. Failing a mediation requirement, states should be allowed to set rates based on "reasonable

community rates" and comparable attorney fees for other state administrative hearings, including caps on fees per hearing.

4) School administrators should have discretion to place students in an Interim Alternative Educational System for more offenses than offenses committed with a dangerous weapon or with drugs. Offenses could include terroristic threatening, persistent harassment, assault, or brandishing weapons.

5) States should be able to impose a statute of limitation on the time period for any hearing filing, subject to notice of the statute of limitations to the parents.

6) The expedited hearing process actually takes up to 45 calendar days to run its course. As a result, school personnel routinely obtain court orders because they're faster, further adding to the high costs of implementing IDEA. The expedited hearing process should be amended to a shorter time period from the current 45 calendar days.

7) The No Child Left Behind Act should be amended so that special education students are not counted when schools make their adequate yearly progress. Otherwise, many schools will fail and numerous lawsuits and compensatory actions will result.

8) Current U.S. Department of Education (USDOE) policy prohibits educational agencies from initiating a hearing to seek a hearing officer's determination of whether the agency should be allowed to override a parent's refusal to consent to the initial provision of special education services. This policy should be altered.

9) Resources are wasted under the present requirement that every state must generate separate procedural safeguard notices for review by the USDOE. USDOE should be required to develop and disseminate a model procedural safeguard that meets the IDEA requirement.

I appreciate the opportunity to expand on my comments from the hearing, and look forward to working with you to amend IDEA to ensure that Congress leaves no child behind, especially those with special needs.

With aloha,

Ed Case

ED CASE
United States Congressman
Hawaii, Second District

CC: Committee Chairman Boehner
Committee Ranking Member Miller
Subcommittee Ranking Member Woolsey

ED CASE
2nd District, Hawaii

128 CANNON
HOUSE OFFICE BUILDING
202-225-4906

U.S. House of Representatives
Washington, DC 20515-1102

March 6, 2003

Ms. Patricia Hamamoto
Superintendent
Department of Education
State of Hawaii
P.O. Box 2360
Honolulu, Hawai'i 96804-2360

Dear Ms. Hamamoto:

As you know, one of Hawai'i's principal challenges over the past decade has been full compliance with the Individuals with Disabilities Education Act (IDEA). These challenges have arisen for various reasons ranging from lack of full federal funding to statutory, administrative, and recent court-ordered requirements.

In the current 108th Congress, I requested appointment to the Committee on Education and the Workforce, and further to that committee's Subcommittee on Education Reform which has jurisdiction over IDEA. That was in part to address IDEA as it impacts Hawai'i, especially given that IDEA will be reauthorized this year. I was in fact appointed to serve on that committee and subcommittee.

On Thursday, March 13, 2003, at 10:00 a.m., my Subcommittee on Education Reform will hold an overview hearing on IDEA. This will be the House's first opportunity to set the stage for discussion of amendments to IDEA this session. I plan to participate fully in this hearing.

I would very much appreciate it if, at your earliest convenience, you could provide your recommendations for amendments to IDEA as well as points and questions I should raise at this hearing. Since time is of the essence, please fax responses to me at (202) 225-4987 or e-mail them to timothy.carson@mail.house.gov .

Should you have any questions or concerns, please contact my Legislative Assistant Tim Carson at (202) 225-4906. Many thanks.

With aloha,

Ed

ED CASE
United States Congressman
Hawaii, Second District

STATE OF HAWAI'I
DEPARTMENT OF EDUCATION

March 12, 2003

The Honorable Ed Case
United States House of Representatives
128 Cannon
House Office Building
Washington, D.C. 20515-1102

Dear Congressman Case:

Thank you for your letter of March 6, 2003. I appreciate the opportunity to provide you with information regarding the reauthorization of the Individuals with Disabilities Education Act (IDEA).

According to the December 2002 child count, the Hawaii Department of Education (DOE) is currently serving 23,277 students with disabilities across thirteen disability categories. This constitutes 12.7% of our student population, which is slightly higher than the national average of about 11.4%. Specific learning disability continues to be the most prevalent disability comprising 49% of all students with disabilities. This is consistent with the national average of 50.6% for this category. The attached child count data provides a more detailed breakdown of the number of students in each disability category. Attached for your information as well is the report submitted to the Office of Special Education Programs (OSEP) on race/ethnicity. As would be expected, the majority (75%) of Hawaii's students with disabilities fells into the Asian or Pacific Islander category. Of the total public school population, 76% are Asian or Pacific Islanders.

In regards to special education teachers, Hawaii, like other states, has struggled to recruit and retain qualified personnel to provide services to children with disabilities. One of the additional benchmarks of the Felix Consent Decree is to attain a minimum of 75% qualified special education teachers for each school and 90% qualified special education teachers statewide. As reported in January 2003, there are 1,954.6 full-time special education positions of which 1,784.5 or 91.1% were qualified special education

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teachers. Currently, there are only 13 schools with less than 75% qualified staff. The DOE has used several strategies to increase the number of qualified special education teachers including:

- Hiring a recruitment agency to conduct a nationwide search and recruitment effort (Columbus Educational Services was able to recruit more than 200 teachers);
- Offering a relocation bonus for out-of-state new recruits;
- Offering incentives to teachers in schools designated as "hard-to-fill" locations (e.g., Kohala, Hana, Molokai I, Lana'i, Ka'u); and
- Offering a $10,000 incentive to dual certified teachers to return to special education for (at least) three years.

The reauthorization of the Individuals with Disabilities Education Act (IDEA), within the context of the No Child Left Behind Act of 2001 (NCLB), presents a great challenge and opportunity for Congress to align ideological and regulatory differences between the existing IDEA and NCLB.

On behalf of the Department, I offer the following recommendations for your consideration as the U.S. Congress engages in the reauthorization of IDEA this session.

FUNDING

- IDEA, Part B, must be fully funded at the 40% level when this Act was first authorized in 1975. Furthermore, funding must be mandatory, not subject to the annual appropriations process; and

- The 11% state set aside must be not be reduced or eliminated. This set aside is essential for the Hawaii DOE to fulfill its state educational agency responsibilities under IDEA: to provide statewide leadership, technical assistance and build capacity.

PROCEDURAL SAFEGUARDS

- The United States Department of Education (USDOE) recently adopted a policy that prohibits educational agencies from initiating a hearing to seek a Hearing Officer's determination of whether the agency should be allowed to override a parent's refusal to consent to the initial provision of special education services. (36 IDELR 69 (OSEP 2001);36 IDELR 267 (OSERS 2001)) In the reauthorization process, this policy should be re-examined.

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This current USDOE policy means that state and local educational agencies now have no procedural recourse to the parent's decision, even if the educational entity strongly believes that a child requires special education in order to receive an appropriate education or, even if it believes that the safety of the child is at risk without the specially designed instructional services.

- The IDEA currently includes duplicative procedural safeguards, such as the mandated redundant provision of procedural safeguard notices, even when the parent declines another copy of the written procedural safeguard notice. Another example of unnecessary redundancy is the requirement that beginning at least one year before the child reaches the age of majority, the IEP must include a statement that the child has been informed of the rights that will transfer to the student upon reaching the age of majority. These redundant procedures are not substantively meaningful in protecting the child's and parent's right. Non-substantive redundancies in procedural safeguards should be eliminated to streamline the process.

- The USDOE has repeatedly found states' procedural safeguard notice legally deficient. Therefore, considerable resources are wasted under the present requirement that every state must generate separate procedural safeguard notice which must be reviewed by the USDOE. Invariably, each state expends much time and resources revising their procedural safeguard notice to meet the USDOE standards. It is recommended that in the reauthorized IDEA, USDOE should be mandated to develop and disseminate a model procedural safeguard notice that meets the IDEA requirements. The availability of a model notice would eliminate duplicative efforts by the states and ensure that all parents nationwide would be provided a legally sufficient procedural safeguard notice.

DUE PROCESS HEARINGS

- The costs of the due process hearing system are escalating nationally, primarily as a result of the protracted nature of the hearing process. The due process system could be streamlined if the reauthorized IDEA would permit the states to impose a statute of limitation on the time period for the filing of a hearing. States, in turn, would be required to provide notice of the statute of limitations to the parents of the child with a disability.

- In Hawaii and across the country, parents are increasingly retaining attorneys when filing a request for due process hearing. Involvement of attorneys in this educational dispute resolution process has resulted in an inordinate amount of state funds being spent on attorney's fees rather than directly on the students with disabilities. All to

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often, some attorneys advise their clients to decline the use of mediation. While IDEA mandates that mediation must be offered to the parties when a hearing is requested, the parents are not required to use this process. In Hawaii, mediation is rarely used to settle disagreements, although in roughly two-thirds of the due process requests filed, attorneys (that have previously declined mediation) are settling the cases prior to the actual hearing. Although mediation works best when it is used voluntarily with good faith on both sides, reauthorizing IDEA to require mediation, without legal compensation, prior to parties filing for a hearing may help to resolve the dispute more amicably and reduce the costs associated with attorney's fees.

- If attorney's fees are maintained, it is recommended that consideration be given to authorizing states to set rates based on reasonable community rates and comparable attorney fees for other state administrative hearings, including setting caps on the fees per hearing.

DAMAGE CLAIMS

- Except for the reimbursement for private school placements and independent educational evaluations, it is not the U.S. Congress but the courts that have primarily determined remedies available under IDEA. Since IDEA is intended to ensure a free appropriate public education to students with disabilities, it is recommended that damages be expressly excluded as a remedy under the IDEA. The current provision of compensatory reimbursement for education/services provided to the student when there has been a denial of a free appropriate public education and/or the delivery of other equitable remedies meets the intent of IDEA.

DISCIPLINE

- There is much confusion and controversy nationally on issues regarding discipline of students with disabilities. Common issues involve the manifestation determination standards and whether a manifestation determination is required for a subsequent suspension after the first suspension of more than 10 school days in a school year. IDEA needs to be revised to provide clear, consistent expectations and standards in the reauthorized law.

- IDEA must be strengthened to ensure that school personnel are able to maintain school safety when addressing persistently dangerous students, while affording the necessary procedural safeguards. The expedited hearing process was intended to provide school personnel with a viable option when they believed that maintaining the current placement of the child was substantially likely to result in injury to the

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child or to others. However, the expedited hearing process is defined in the IDEA regulations as 45 calendar days and, since it is faster to request a court order, school personnel in an emergency situation rarely use the expedited hearing process. The expedited hearing process may be counterintuitive.

- The school administrator's discretion to place students in an Interim Alternative Educational Setting (IAES) must be expanded. Presently, the administrator may only place a student in an IAES if the offense committed involved dangerous weapons, drugs or controlled substances. IDEA should be reauthorized to allow the school administrator expanded authority to include other offenses such as terroristic threatening, persistent harassment, assault, the possession/use of items such as nanchuka sticks, ninja stars, knives of any size, utility knives, and any object that is used as a weapon (such as screwdrivers and baseball bats). Incidents involving any of these offenses create an atmosphere of anxiety and fear for students and staff.

- Of utmost concern when a serious disciplinary infraction has occurred is where a special education student remains in school because his/her parent has requested a hearing and the "stay put" location is the school. If the hearing process is delayed, which often happens, the student may remain in school indefinitely without any consequences. In addition, once a hearing has been requested, the IAES option cannot be exercised by the administrator unless both parties agree. The "stay put" provision when the student has committed a serious disciplinary action is counterproductive to maintaining an environment in which other students and staff feel safe.

LEARNING DISABILITIES

Although the IDEA law imposes minimal requirements in the area of specific learning disabilities, the USDOE regulations require additional procedures in the evaluation and eligibility that result in unnecessary paperwork on the part of the state and local educational agencies. It is recommended that the minimal requirements in the IDEA law be maintained and, that the USDOE be instructed to streamline the regulations in this area and to repeal the additional requirements in Title 34 C.F.R. Section 300.540 on additional eligibility team members, Section 300.542 on observation, and Section 300.549 on the written report.

STUDENTS WITH A DISABILITY VOLUNTARILY PLACED BY PARENTS IN A PRIVATE SCHOOL

The USDOE has taken the position that a student with a disabilities who is voluntarily placed by their parents in a private school must be reevaluated every three years,

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whether the parent requests such reevaluation or not. IDEA is clear that a voluntarily placed private school child with a disability does not have an individual right to receive some or all of the special education and related services the child would receive if enrolled in a public school. Therefore, the USDOE's regulation is inconsistent with IDEA, causes unnecessary paperwork, and intrudes on the family who has voluntarily placed their child with a disability in a private school.

CHARTER SCHOOL AND SPECIAL EDUCATION

Congress is requested to carefully examine the interface of NCLB with the reauthorized IDEA to ensure that both laws are consistent and compatible. The reauthorized IDEA must be clear that the state and/or local educational agencies must work together from the very beginning in determining a child's special education program and placement. If the intent is that the state and/or local educational agencies are responsible for the delivery of a free appropriate public education (FAPE) for all eligible students, including those who attend public charter schools. If the ultimate responsibility for FAPE falls upon the State for all students with disabilities, the reauthorized IDEA must be explicit that a public charter school cannot make unilateral decisions about a child's Individualized Education Program (IEP) or placement. A representative of the local or state educational agency must be involved.

PARTICIPATION OF SPECIAL EDUCATION STUDENTS IN STATEWIDE ASSESSMENTS

Congress is requested to carefully examine the interface of NCLB with the reauthorized IDEA in this area as well. NCLB requires that students with disabilities not only participate fully in the statewide assessments of standards, but the expectation is they will demonstrate the same level of proficiency as all other students. No one can argue with this goal philosophically. However, Congress may wish to consider the implications of both laws interfacing as more and more schools fail to make the adequate yearly progress (AYP) benchmark under NCLB. If, as a subgroup, special education students are the reason for schools failing to make AYP, lawsuits and compensatory actions may increase dramatically under IDEA. This would be a serious unintended consequence for America's public schools.

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Thank you for the opportunity to provide you with the Department's input on the reauthorization of IDEA. We are very pleased that you have been appointed to the Committee on Education and the Workforce. Should you have any questions, please feel free to contact Dr. Paul Ban, Director, Special Education Services Branch, at (808) 733-4400.

Very truly yours,

Patricia Hamamoto
Superintendent

PH:pb

Attachments

c: Office of Curriculum, Instruction and Student Support

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CHILD COUNT - DECEMBER 2, 2002

The student count is the same as the subofficial count only the disabilities will differ from

District 2002 District Count /	Autism	Deaf Blindness	Developmental Delay	Emotional Disturbance	Hearing Impairment	Mental Retardation	Multiple Disability	Orthopedic Impairment	Other Health Impairment	Spec. Learning Disability	Speech/Lang Impairment	Traumatic Brain Injury	Visual Impairment	TOTAL
Honolulu District	138	0	226	305	54	484	84	21	345	1,488	62	14	10	3272
Central District	114	0	374	478	61	294	45	33	361	2,006	491	8	20	4228
Leeward District	116	1	325	686	109	652	61	18	221	2,877	357	18	18	5076
Windward District	76	0	144	445	50	280	45	18	208	1011	380	15	6	2676
Hawaii District	168	1	184	723	47	291	58	11	271	1,627	140	15	16	3345
Maui District	83	0	172	619	39	88	26	6	237	1676	188	10	8	2568
Kauai District	22	0	80	140	30	82	14	7	126	748	24	5	6	1301
HCDB	2	1	1	0	74	0	5	0	2	0	0	0	0	85
Kula Kaiaea	4	0	1	2	6	1	2	5	2	23	3	0	0	36
Private School	12	0	11	3	2	3	0	6	6	28	56	1	1	129
Totals	846	3	1,472	3,911	472	2,156	382	116	1,806	11,372	1,999	80	82	23,277

Submitted by Harvey Ouchi, Educational Specialist
Student Support Services Branch, Special Education Section

HCDB = Hawaii Center for Deaf-Blind
PSPP = Private School Participation Project

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U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
PROGRAMS

TABLE 1

PAGE 7 OF 8

NUMBER OF CHILDREN WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT, AS AMENDED

OMB NO: 1820-0043
EXPIRES: 12/31/2004

2001

STATE: 18-INDIANA

SECTION B

DISABILITY / RACE/ETHNICITY	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN OR PACIFIC ISLANDER	BLACK (NOT HISPANIC)	HISPANIC	WHITE (NOT HISPANIC)	TOTAL	COMPARISON RACE ETHNICITY TOTALS	COMPARISON OF 618 REPORTED
SPECIAL VISITATION	8	1705	43	67	320	2137	2137	2137
HEARING IMPAIRMENTS	3	312	4	14	49	390	383	380
ORTHOPEDIC IMPAIRMENTS	7	1390	61	42	337	1444	1444	1444
VISUAL IMPAIRMENTS	1	58	2	0	13	74	74	74
EMOTIONAL DISTURBANCE	21	1191	78	118	845	2983	2983	2983
TOXIC/TOXIC IMPAIRMENTS	2	73	4	1	29	99	99	99
OTHER HEALTH IMPAIRMENTS	11	1290	64	56	484	1805	1805	1805
SPECIFIC LEARNING DISABILITIES	45	8812	826	325	1793	10341	10341	10341
DEAF-BLINDNESS	0	2	0	0	0	2	2	2
MENTAL RETARDATION	6	230	10	7	67	317	317	317
AUTISM	2	381	19	8	183	525	525	525
TRAUMATIC BRAIN INJURY	1	69	1	0	4	75	75	75
DEVELOPMENTAL DELAY*	3	763	49	35	141	1019	1019	1019
TOTAL (Sum of all the above)	110	16184	917	709	3758	21182	21182	21182

* States may have defined and established eligibility criteria for developmental delay in order to use this category for reporting.

COMPUTED TOTALS 110 16184 917 709 3758 21182

ED FORM 999-0

Thank you for this opportunity to provide recommendations for amendments for the upcoming reauthorization of IDEA Part C (Infants and Toddlers). I was asked to e-mail you from my home as I received a copy of Representative Case's request as I was leaving my office.

I am Sue Brown, Part C Coordinator. Hawaii's Part C program, the Early Intervention Section, is within Children with Special Health Needs Branch, Family Health Services Division, Department of Health.

Following are recommendations for amendments to IDEA, Part C.

1. Increase funding for Part C. The Infant & Toddler Coordinators Association recommends that funding for Part C should be appropriated at $600 million for FY 2003, with subsequent yearly increases of $45 million per year to reach $685 million by FY 2008. Because a state's allocation is based on the birth - age 3 cohort, regardless of the percentage served, Hawaii is at a disadvantage as it serves a higher percentage than most states, but received the minimum state allocation of $2,141,753 for the current fiscal year.

2. Provide incentive funding for states that serve at least 2% of the children under age 3. Developing this incentive would support the identification of more Part C eligible children nationwide, as the national Part C child count of 12/1/2000 found that only 1.99% of the birth to three population received Part C services. This would also benefit Hawaii, as the 12/1/2002 childcount identified 10% of the 0-3 population (4999 children) eligible and receiving Part C services. Of this number 2002 were developmentally delayed or biologically at risk, while 2997 were at environmental risk. This was an increase of more than 1000 children as compared to the 2001 childcount, which identified 3981 eligible children. Also, based on the 12/1/2000 child count, Hawaii was one of only 4 states to serve 3.5 percent or more of the 0-3 population. Because of its philosophy of prevention and early intervention, Hawaii has consistently been a leader in identifying and serving Part C eligible children.

3. Provide incentive funding for states that serve children at environmental risk. IDEA Part C provides the opportunity for states to choose whether or not to include infants and toddlers at environmental risk in the state's definition of eligibility. Hawaii, to support its focus on prevention and early intervention, was one of the few states to embrace this population in its definition. Since serving this population is an option, states that choose this option should receive additional funding. This incentive would not only provide additional needed funding for Hawaii, but would also support increasing the Part C eligible children nationwide.

4. Include language in this legislation that allows states with non-Department of Education lead agencies access to Impact Aid funds. Impact Aid provides additional funds to states who provide services children of the military. However, the language states that the funds can only go to educational agencies. Therefore, since the lead agency for Part C is the Department of Health, Hawaii's Part C program cannot access these funds. As many of our Part C eligible children are military related, these additional funds would provide additional revenue to the Department of Health in meeting the needs of all Part C eligible children. Also, include similar language in the Impact Aid legislation.

Thank you for this opportunity to provide input.

Sue Brown, M.Ed., Part C Coordinator
1600 Kapiolani Blvd., Suite 1401
Honolulu, HI 96814
808-973-9650 (phone)
808-973-9655 (fax)

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The Senate
The Twenty-Second Legislature
of the
State of Hawaii

STATE CAPITOL
HONOLULU, HAWAII 96813

March 11, 2003

Representative Ed Case
United States Congress
128 Cannon
House Office Building
Washington, D.C.

Dear Representative Case:

I greatly appreciate your request for my input on potential reforms of the Individuals with Disabilities in Education Act (IDEA). I agree with you that one of our principal challenges in education in Hawaii has been with full compliance with the law. I also feel strongly that there are elements of the law that prove to be a distraction to the real work of educating our children. Here is a synopsis of my thoughts regarding IDEA:

- **Establish Guidelines on Responsibilities for "Free and Appropriate Education":** I believe that there are shared responsibilities between the family and the school for children that have mental disabilities. The schools could better focus on their responsibilities if they had clear guidelines as to what the family (parents, grandparents) are responsible for (if anything). Guidelines could also facilitate better discussions and communications between parents and the schools once roles and responsibilities are clearly laid out. For example, once a child is tested, does the school assume financial responsibility for ALL outlined services in the Individualized Educational Plan (IEP), or is there a role for the family to perform and be responsible for in the child's development?
- **Integrate School Services with Health Care:** Health plans currently reject claims for service for children with mental disabilities by claiming that the services are the School's responsibility under the Felix Decree. Better coordination between health care and other programs to share these responsibilities would help to take pressure off the schools.
- **Coordinate Record and Information Sharing:** Forms required by different agencies, such as health, courts, education, and foster care are not uniform and cause the waste of a tremendous amount of time. Uniform forms and information sharing requirements would help streamline the process.
- **Extend the Confidentiality Circle:** Strict confidentiality requirements prohibit the sharing of information regarding the IEP from some individuals who might

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be able to assist in its implementation, or could better perform their duties if they had information regarding the child's needs. Examples would be coaches, administrators, and teachers who have contact with the child, but are not the primary teacher. All information should obviously be appropriately held, but provided to those who need it.

- **Clarify the Obligation to Institutionalized Children:** How are institutionalized children to become a part of the education system, even to the extent that they lie in a school room and have one on one or very intense medical oversight.
- **Establish Guidelines and Standards for Discipline:** Before the child is 20 what obligations does the school have even if the child is disruptive and the problems are chronic.
- **Integrate IDEA Appropriately with No Child Left Behind:** Perhaps a standard for measuring school success with IDEA children could be "best effort" or "improvement." It needs to be a reachable standard rather than unreasonably high expectations when the disabilities are severe.
- **Raise the Medicaid Reimbursement:** The Medicaid and other federal reimbursements need to be raised to take into account the new and increased costs.
- **Increase the Federal Governments' Allocations:** The original IDEA allocated "up to 40%" of the costs to be carried by the Federal Government, today it is shouldering just around 11% of the costs. More funds are needed as the responsibilities themselves and the cost of meeting those responsibilities both rise.

Thank you again for your efforts on this important issue. I greatly appreciate the opportunity to provide my thoughts.

Sincerely,

Senator Norman Sakamoto
Chair, Senate Education Committee

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APPENDIX J – WRITTEN STATEMENT FROM MR. MICHAEL RESNICK, ASOCIATE EXECUTIVE DIRECTOR, NATIONAL SCHOOL BOARDS ASSOCIATION, ALEXANDRIA, VA.

Excellence and Equity in Public Education through School Board Leadership

Office of Advocacy

- Mogal W. White
  President
- Anne L. Bryant
  Executive Director
- Michael A. Resnick
  Associate
  Executive Director

March 12, 2003

The Honorable Michael Castle, Chairman
Subcommittee on Education Reform
House Education and Workforce Committee
U.S. House of Representative
Washington, D.C. 20515-6100

Dear Chairman Castle:

Re: ***Hearing on the Reauthorization of the Individuals with Disabilities Education Act (IDEA)/Letter for the Record***

The National School Boards Association (NSBA), representing 95,000 school board members, wishes to submit this letter for the record for the hearing on "IDEA, Focusing on Improving Results for Children with Disabilities", scheduled Thursday, March 13, 2003.

NSBA urges you, in the reauthorization of IDEA, to include provisions that will improve the capability of local school districts to meet the educational needs of students with disabilities while at the same time protecting their rights. Unfortunately, IDEA has evolved into an overly litigious process that is driven by forms and procedures that all too often produces results that are not in the best interest of children or the best use of scarce public resources. The primary focus must be on improving the academic achievement of students with disabilities, as other students.

As you are aware, NSBA has developed over 40 specific recommendations to address major reforms in the design and implementation of IDEA. These recommendations were developed as a result of a comprehensive review of IDEA implementation among local school district leaders and professionals from across the nation. NSBA provided a copy of the recommendations to each member of Congress in November 2002. I have enclosed a copy of these recommendations for your convenience. NSBA urges to you adopt these recommendations to ensure that the challenges facing local school districts are appropriately addressed.

Although addressed in the formal recommendations, we invite your attention to two key areas:

- **Fully fund the federal share of IDEA as a mandatory program**

To meet the increasing demand, and to provide local school and taxpayers relief, funding for the program must be mandatory at the federal level as it is at the local level. That is, federal funding should be automatic and set at a commitment level (e.g. what is done with multi-year defense contracts). This would ensure that federal revenues would be set aside to meet the cost of the program. By contrast, funding for this program currently comes from the discretionary side of the budget and, as such, is subject to the annual

decisions and trade-offs of federal lawmakers. By funding the program as a mandatory federal expense, IDEA funding levels would be set and would not be subject to the political pressures of discretionary funding, which result in continual under-funding of IDEA.

- **Oppose any voucher provision in IDEA**

We would like to emphasize our opposition to vouchers in IDEA. Current law allows parents and local school districts to place children with disabilities in private schools if the local district is unable to meet the child's individual education plan (IEP), but the authority remains with the local district and the child maintains his or her IDEA rights. Vouchers would remove local school districts from the student placement process yet directly drain dollars from their budgets, adversely impacting education programs for all students.

One voucher program receiving attention is Florida's McKay program. This program should not be replicated at the federal level. Evidence from Florida indicates the state has no oversight into how tax dollars dedicated to children with disabilities have been spent. Children in the program do not maintain their IDEA rights and have no guarantee of receiving the services specified by their IEP. Teachers in the voucher schools do not even need to have high school diplomas. Meanwhile, millions of tax dollars have been diverted from the state's public schools, which educate approximately 60 times as many special education students as the voucher program.

NSBA looks forward to working closely with you and your staff throughout the reauthorization process. If you have questions concerning our comments, please contact Reginald M. Felton, director, federal relations, at 703-838-6782, or by e-mail, rfelton@nsba.org.

Sincerely,

Michael A. Resnick

Michael A. Resnick
Associate Executive Director

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